

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22142 of 2018

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Ranjan Kumar S/o Late Muneshwar Prasad, R/o Reserve Bank of India Colony, Near Saint Joseph School, Kumhrar, P.S.- Agamkuan, Patna.

... .. Petitioner/s

Versus

1. The Patna Municipal Corporation
2. The Commissioner, Patna Municipal Corporation, Patna.
3. The Vigilance Officer, Patna Regional Development Authority.
4. The Executive Engineer, Division-F, Patna Regional Development Authority.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Akash Deep, Advocate
For the PMC	:	Mr.Prasoon Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

12 04-07-2023 Heard Mr. Akash Deep, learned counsel for the petitioner and Mr. Prasoon Sinha appearing for the Patna Municipal Corporation.

The instant writ application is being filed on behalf of the petitioner praying therein for issuance of appropriate writ, rule or direction, commanding upon the respondent authorities:

(a) for setting aside the order dated 30.08.2018 passed in Appeal No. 10(S)/2015 by the Municipal Building Tribunal - 02 (arising out of Vigilance Case No. 228A/2006, whereby the appeal of the Petitioner has been rejected, with liberty to the Petitioner to approach the Learned Court of the Municipal Commissioner, Patna Municipal Corporation, while at the same



time the Petitioner has been directed to close the Saloon and the Community Hall within a month, and file an affidavit to that effect, only after which the post-facto sanctioning of map, as per the prevailing rules, would be approved;

(b) for setting aside the order dated 11.12.2015 passed by the Learned Court of Municipal Commissioner, Patna Municipal Corporation in Vigilance Case No. 228A/2006, to the extent, whereby the Petitioner has been imposed with a condition to file an affidavit to the effect that he has stopped the commercial activity (saloon community hall etc) in his premises, only after which post-facto sanctioning of map would be approved;

(c) for stay of the orders dated 11.12.2015 and 330.08.2018 during the pendency of the writ application.

(d) direct the Respondent authorities to approve the post-construction sanctioning of map, in accordance with law and the rules applicable thereto.

Now by way of supplementary affidavit, it has been incorporated in paragraph 5 that against the rejection order dated 22.10.2021, an appeal vide no. 4(S)/2020 has been preferred before the Municipal Tribunal, Patna where the same is pending.



As such it has been fairly submitted by the learned counsel for the petitioner that he will be agitating the matter before the Tribunal. His only grievance is that till the matter is taken up, at least the area which has been sealed on 21.02.2019 i.e. prior to the flood of September-October, 2019 and is virtually affecting the building be unsealed for 72 hours so that the same is cleaned and anything which has been left behind could be taken out.

Mr. Prasoon Sinha, learned counsel for the Patna Municipal Corporation submits that he can seek any interim protection before the Tribunal where the matter is pending. He, however, undertakes that if the narration of the condition of the rooms which have been sealed is/are correct pursuant to the 2019 flood, the Patna Municipal Corporation will be unsealing the said premises for 72 hours so that the petitioner could clean and do the needful in the presence of an official of the Patna Municipal Corporation.

It is his further submission that once the cleaning process is completed which has to be done within 72 hours, the Patna Municipal Corporation may be allowed to seal the premises again till further order by an appropriate Court.

Learned counsel for the petitioner accepts the said



version of the Patna Municipal Corporation.

In that view of the matter, the present writ petition is disposed of with the following observations:

(i) the petitioner has already preferred appeal from where he would seek the interim protection;

(ii) the Patna Municipal Corporation, in the meanwhile, should take steps so that on 10th of July, 2023, the premises in question is unsealed at 9:00 A.M. and after cleaning process is completed, the same can be sealed by it at 7:00 P.M. on 12th of July, 2023;

(iii) the Patna Municipal Corporation submits and the petitioner accepts that the entire process shall be video-graphed by its Officials.

Since the matter is of 2021, the Tribunal should take up the matter and conclude the same preferably within a period of four months.

The writ petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

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