

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17808 of 2022**

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1. Sri Nawal Kumar @ Nawal Kumar Jaiswal Son of Sri Raj Kumar Chaudhary Resident of Parwati Hat, Bhatta, P.S.- Khajanchi Hat, District- Purnea.
  2. Sri Lokesh Kumar Jaiswal, Son of Sri Raj Kumar Chaudhary Resident of Parwati Hat, Bhatta, P.S.- Khajanchi Hat, District- Purnea.
  3. Sri Vijay Kumar Jaiswal, Son of Sri Raj Kumar Chaudhary Resident of Parwati Hat, Bhatta, P.S.- Khajanchi Hat, District- Purnea.
  4. Laxman Kumar Mishra, Son of Ram Padarath Mishra Resident of Parwati Hat, Bhatta, P.S.- Khajanchi Hat, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Commissioner, Purnea Division, Purnea.
3. The Municipal Commissioner, Purnea Municipal Corporation, Purnea.
4. The District Magistrate, Purnea.
5. The Superintendent of Police, Purnea.
6. The Sub Divisional Officer, Purnea.
7. The Executive Engineer, Electricity Supply Division, East and West, Purnea.
8. Ramesh Chandra Agrawal, Son of Late Ram Narayan Chandra Resident of R.N. Shah Chowk, Ward No.- 13, P.S.- K. Hat, District- Purnea.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s  | : | Mr. Vikas Kumar, Advocate          |
| For the Respondent/s  | : | Mr. Kinkar Kumar (Sc9)             |
|                       | : | Ms. Deepika Sharma, AC to SC-9     |
|                       | : | Mr. Yogesh Kumar, AC to SC-9       |
| For Electricity Board | : | Mr. Kunal Tiwary, Advocate         |
| For the PMC           | : | Mr. P.N. Shahi, Sr. Advocate       |
|                       | : | Mr. Bijendra Kumar Singh, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**



3      25-04-2023                      Heard learned counsel for the petitioners, learned counsel for the State Mr. Kinkar Kumar along with learned counsel for the Electricity Board and learned Senior counsel for the Purnea Municipal Corporation Mr. P.N. Shahi assisted by Mr. Bijendra Kumar Singh.

The petitioners are aggrieved by an order dated 05.11.2022, passed in Vigilance Case No. 9 of 2022-23, by the Municipal Commissioner, Municipal Corporation Purnea, whereby the premises in which the petitioners are tenants has been sealed and a penalty of Rs. 10,00,000/- has been imposed.

The learned counsel for the petitioners submits that petitioners are tenants in the premises in question which stands sealed by the Municipal Commissioner, Purnea Municipal Corporation. The learned counsel next submits that from perusal of Annexure 6 to the writ application it would manifest that it appears that in pursuance of Letter No. 3307 dated 18.07.2022 issued by the District Magistrate, Purnea, an inquiry was conducted with respect to the premises in question. It is further submitted that the Sub-Divisional Officer, Purnea by his Memo No. 504 dated 04.08.2022 had requested the Labour Superintendent, Purnea to submit a



Report with respect to the premises/ land in question on the ground that the land in question is a Khasmahal land duly recorded in the Register of the Government and the lease of the land stood expired in the year 1984, thereafter no efforts were made by the legal heir of the original lessee to get the Khasmahal land renewed, further the letter also recorded that in part of the premises some construction work illegally is going on, as such, the Labour Superintendent was requested to hold an inquiry and to submit a Report as to whether any child labour has been employed for getting the work done so that the District Magistrate can be informed about the same.

The learned counsel next submits that from perusal of Annexure 7 to the writ application it would manifest that a Report in compliance of the Letter dated 04.08.2022 issued by the S.D.O. Sadar Purnea, was submitted on 05.08.2022 recording that an inspection of the site was conducted and during inspection Bamboos were found in the premises but no child labour was found, the Report also recorded that Ramesh Chandra Agarwal informed that construction work is not going on rather repair work is being done but even the said work is not being carried for the last two months.

The learned counsel next submits that from perusal



of Annexure 6 and 7 it would manifest that the inquiry was limited as to whether any construction work was going or not within the premises and if yes whether child labour was employed for the same or not. The learned counsel further submits that the Report is clear that the inquiry did not find any work going on within the premises nor any child labour was found. The learned counsel next submits that all of a sudden they came to know that an order dated 05.11.2022 has been passed sealing the premise in question, it is next submitted that the petitioners were taken aback as they were tenants and were running their business within the premise and they didn't even get a chance to remove the articles lying in the shop. It is also submitted that no fresh construction was going on but still the Municipal Commissioner sealed the entire premises and got the electricity disconnected. The learned counsel vehemently submits that their landlord is a landed person and has plots in different parts of Purnea, it is next submitted that the construction of a building no doubt was going on but not within the premises in which the petitioners are tenants.

The learned counsel to buttress his arguments submits that if fresh construction would have been carried



within the premises in question then definitely the said fact would have been brought to the notice of the Sub-Divisional Officer, Purnea, by the Labour Superintendent who had carried the inquiry in pursuance of the order passed by the Sub-Divisional Officer on the direction of the Collector of the District.

Learned counsel submits that it absolutely defies all logic, wisdom and reasonable administrative behaviour that if the Collector of the District had directed for an inquiry, the Labour Superintendent could not have concealed the fact that fresh construction is going on. The learned counsel thus submits that Annexure G to the counter affidavit filed on behalf of the Municipal Commissioner, Purnea gets contradicted by the Report of the Labour Superintendent.

The learned counsel appearing for the Electricity Board submits that since the building has been sealed, as such, the electricity connection has been disconnected, the moment the building is unsealed, electricity connection shall be restored forthwith.

Learned Senior counsel appearing for the Municipality has tried to impress the Court by making a submission that from perusal of Annexure G to the counter



affidavit it would manifest that fresh construction was going on but then the learned Senior counsel is not in a position to rebut the submission of the learned counsel for the petitioners that the Report of the Labour Superintendent is clear in its content and does not even remotely suggest that fresh construction was going on within the premises in question and the Report of the Labour Superintendent was submitted in pursuance of the direction issued by the SDO Sadar, Purnea on the direction of the Collector, as such, the Labour Superintendent could not have concealed any material facts in his Report.

The learned counsel for the petitioners next submits that the Municipal Commissioner, Purnea Municipal Corporation is in habit of imposing cost and has cited certain orders to show that in all the cases, the Municipal Commissioner imposes cost of Rs. 10,00,000/- and that too without any basis or justification. The learned counsel for the petitioners next submits that the Municipal Tribunal was not functional, as such, the petitioner had to approach this Court directly, it is further submitted that now the Municipal Tribunal has become functional and the petitioners have preferred appeal against the order passed by the Municipal



Commissioner which is impugned in the present writ application being Appeal No. 21 (N) of 2023. Since, an appeal has been filed by the petitioners before the learned Municipal Tribunal, as such, the Court is not inclined to proceed with the writ application, any further.

At this stage, the learned counsel for the petitioners submits that since the Municipal Tribunal was not functional, as such, the petitioners had to move before this Court seeking the relief but now since the Tribunal has become functional, as such, appeal has been filed but then the appeal has been filed beyond the period of the limitation.

The Court expects that the learned Municipal Tribunal will keep in mind the fact that petitioner was before this Court availing his remedy from 29.11.2022 till date.

The writ application is thus disposed of with a direction to the learned Municipal Tribunal to decide the case expeditiously, preferably within a period of six months from the date receipt production of a copy of this order, if possible.

In the meantime, the order dated 05.11.2022 contained in Memo No. 2676 passed by the Municipal Commissioner, Municipal Corporation, Purnea in Vigilance Case No. 9 of 2022-23 shall remain in abeyance.



The petitioners will have the liberty to seek stay of the order from the learned Municipal Tribunal when the matter is taken up on the first day. Whether the stay granted by this Court shall continue or not shall lie completely in the discretion of the learned Municipal Tribunal when the matter is taken up.

The Electricity Department is directed to restore the electricity in the premises forthwith.

**(Satyavrat Verma, J)**

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