

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24189 of 2019

Rajesh Kumar Sudhanshu Son of Late Bhim Paswan Resident of Mohalla-
Mayaganj, Ward No.- 3/27, P.O/P.S.- Barari, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Urban Development and Housing Department,
Government of Bihar, Patna-1.
3. The Joint Secretary Urban Development and Housing Department,
Government of Bihar, Patna-1.
4. The Municipal Commissioner Municipal Corporation, Bhagalpur.
5. The Union of India Through the Secretary, Department of Tele
Communication, Government of India, New Delhi.
6. Sri Gopal Paswan Son of Late Bhim Paswan Resident of Mohalla-
Mayaganj, Ward No.- 3/27, P.S.- Barari, District- Bhagalpur.
7. The Tower Vision India Pvt. Ltd. A registered Company under the
Companies Act having its Circle Office at Sudama Bhawan, 2nd Floor,
Boring Road, P.S.- Krishnapuri, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vivekanand Vivek, Advocate
For the Respondent/s	:	Mr. Abbas Haider (SC-6)
		Mr. Kumar Priyaranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 01-08-2023 Heard Mr. Vivekanand Vivek, learned counsel for

the petitioner and Mr. Kumar Priyaranjan, learned Central

Government Counsel as also the State.

*The prayer is for removal of
mobile tower installed by the Tower Vision
India Pvt. Ltd. over the residential house of
respondent no. 6 in Mohalla- Mayaganj, P.S.
-Barari in the district of Bhagalpur.*

Learned counsel for the petitioner submits that despite
the order of the Municipal Commissioner, Bhagalpur Municipal



Corporation which has also been served upon the Tower Vision India Pvt. Ltd. vide memo no. 262 dated 26.03.2018 (Annexure-5 to the writ petition), no step has been taken.

Learned Central Government Counsel as well as State Government Counsel has drawn attention of this Court to a Division-Bench order which was filed by the said Tower Vision India Pvt. Ltd. vide CWJC No. 7558 of 2018, the same was disposed of on 30.09.2020 and paragraph 18 of the said order read as follows:

18. We are inclined to accept the petitioners' prayer and as such dispose of the present Petition on the following terms:-

(a) Liberty, as prayed for, is granted.

(b) Petitioners are allowed to take recourse to such measures as are provided under the 2020 Rules.

(c) This, they must positively do so within the time frame prescribed thereunder or within four weeks from today, whichever is later.

(d) With the receipt of the application, the authority constituted under the 2020 Rules shall positively decide all issues within a period of three months.

(e) Bank guarantees shall be kept alive till such time, the petitioners'



application stands finalized.

(f) Prayer (a) reproduced supra stands left open to be agitated subsequently, on the same cause of action, if so required and desired.

(g) Equally, all issues on merits are left open to be agitated under and in terms of 2020 Rules or other remedies available in law.

(h) Demand, if at all, to make payment under the 2012 Rules is left open to be considered and adjudicated as per law. However, no demand in terms of notices, Annexure-4 series, shall be enforced until the process under 2020 Rules stands finalized.

(i) If the petitioners fail to take action within the stipulated time, respondents can encash the bank guarantees without any further reference to this Court.

(j) Petitioners' motion shall be without prejudice to their right to challenge the validity of 2020 Rules.

(k) Liberty is reserved to the petitioners to approach this Court on the same and subsequent cause of action.

The Division-Bench order has clearly defined the lines for the Tower Vision India Pvt. Ltd. to follow.

On the other hand, there is an order of the Municipal



Commissioner, Bhagalpur Municipal Corporation which according to the petitioner has still not been implemented.

Instead of keeping the writ petition pending, the petitioner is directed to once again represent before the Municipal Commissioner, Bhagalpur Municipal Corporation within a period of four weeks from today.

If the said representation is preferred, the Municipal Commissioner, Bhagalpur Municipal Corporation is duty bound to look into the matter, hear the necessary parties including the Tower Vision India Pvt. Ltd. as also respondent no. 6, Sri Gopal Paswan and pass a positive order within next three weeks.

Needless to say, the Bhagalpur Municipal Corporation has to pass an order keeping in view the notification issued by the Urban Development and Housing Department notified vide no. 585 dated 21.02.2012 which forms Annexure-7 to the present writ petition.

The writ petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

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