

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6833 of 2021

Landmark Out-Door Media Services Pvt. Ltd., Barman Press Compound,
R.K. Avenue, Nala Road, Patna- 800004 through its Director, Mr. Shashank
Kumar, Male, Aged about 44 years, Son of Late T.K. Barman.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Additional Chief Secretary, Road Construction Department, Bihar, Patna
2. The Additional Chief Secretary, Road Construction Department, Bihar, Patna.
3. The Executive Engineer, Road Construction Department, Patna West, District- Patna.
4. The Assistant Engineer, Road Sub Division, Danapur, District- Patna.
5. Nagar Parishad, Danapur Nijamat, District- Patna through the Executive Officer.
6. The Executive Officer, Nagar Parishad, Danapur Nijamat, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Raju Giri
		Mr. Santosh Kumar Mishra
For the State		Mr. Ashok Kumar Dubey, AC to AAG II
For the Nagar Parishad Danapur		Mr. Sunil Kumar

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

CAV ORDER

21 17-12-2024 I have already heard the learned counsel for the petitioner, the learned counsel for the respondent-Nagar Parishad, Danapur as well as the learned counsel for the State.

2. The petitioner, Landmark Out-Door Media Services Pvt Ltd. is an advertising agency. The petitioner has filed the present writ application for the following reliefs:-

“(i) To issue an appropriate writ/order/ direction in the nature of Certiorari for



quashing the order dated 10.02.2021 passed by the Assistant Engineer, Road Sub Division, Danapur Patna, by which in purported exercise of power, the Assistant Engineer has sent Notice to the petitioner for removing the hoardings placed by the petitioner pursuant to the directions of the Executive Officer, Danapur Nagar Parishad, Danapur Nizamat, Patna, at the places earmarked in memo no. 1814 dated 26.12.2015 and memo no. 887 dated 23.05.2017, both issued by the Executive Officer, Nagar Parishad, Danapur, Patna.

(ii) To issue an appropriate writ/order/direction. directing the Assistant Engineer of the Road Sub Division, Danapur, Patna not to disturb the hoardings of the petitioner put at places as directed by the Executive officer, Nagar Parishad, Danapur vide memo no. 1814 dated 26.12.2015 and memo no. 887 dated 23.05.2017.”

3. It is the case of the petitioner that the petitioner is



an advertising agency having its office at Patna. The Executive Officer, Nagar Parishad, Danapur Nizamat (respondent no.6) granted permission to the petitioner to put up/ raise hoardings beside the road. The permission was granted through memo no. 1814 dated 26.12.2015 (Annexure-1). Further case of the petitioner is that prior to the present cause of action also in the year 2017, some disturbances were created by the Executive Engineer, Road Construction Department, Patna (respondent no.3). The petitioner is continuously paying the registration fee to Nagar Parishad, Danapur. It has been averred further that on 27.01.2021, a meeting was held by the Additional Chief Secretary, Road Construction Department, Bihar Patna. The purpose for convening the meeting was for removal of unauthorized hoardings. The resolution of the meeting dated 29.01.2021 is Annexure-7. As per the resolution of the meeting, the unauthorized hoardings were directed to be removed since their existence besides the roads were insecure/ hazardous for the traffic and the existence of the hoardings are also in violation of the provision of IRC Code, which has been formulated to ensure the road safety. The petitioner thereafter sent a letter on 03.02.2021 to the Executive Engineer, Road Construction Department not to disturb his hoardings, as the



hoardings were erected after getting permission from the Nagar Parishad through memo no. 1814 dated 26.12.2015, but ignoring the letter the Assistant Engineer Road Sub-Division, Danapur (respondent no.4) sent a notice vide letter dated 10.02.2021, directing the petitioner to remove the hoardings at Danapur Khagaul-Road and Nehru Road.

4. The learned counsel for the State has submitted that the road in question beside which the hoardings were erected was not vested in Nagar Parishad as per the provision of section 100(e) of the Bihar Municipal Act, 2007 (for short 'the Act 2007'). It has been averred that to ensure the safety and security of the road, a policy namely IRC; 46-1972 was formulated and the provision 46 thereof deals with the policy on the roadside advertisement. The IRC was constituted by the Central Government on the recommendation of Jayakar Committee and it was registered on 24th September, 1937 under the Societies Registration Act. A number of committees and sub committees are there in the IRC. Clause 1.1. of the policy discloses the reasons for formulating the policy on the roadside. Clause 1.1. is being quoted hereinbelow:-

“Lack of control on hoardings or display of advertisement panels (including wall panels on roadside structures) leads only to creation



of traffic hazards but often also causes serious detriment to local amenity and general aesthetic characteristics neighborhood"

5. The learned counsel for the petitioner has submitted that the road in question is not the property of the Road Construction Division or the State Government. He submitted further that as per the provision of Section 100(e) of 'the Act 2007', all the public streets were vested in Nagar Parishad on the day of the constitution of Nagar Parishad and the public streets include the road as per Section 2(83) of 'the Act 2007'.

Section 100(e) and Section 2(83) of 'the Act 2007' are being quoted hereinbelow:-

"100. Vesting of property.-
Notwithstanding anything contained in any other law for the time being in force, the movable and the immovable properties of the following categories pries within the limits of a municipal area, not belonging to any Government department or statutory body (excluding Zila Parishad or corporation) shall vest in the Municipality, unless the State Government directs otherwise by notification, namely:-

(e) all public street and pavements, and stones and other materials thereon, and



also trees on such public streets or pavements not belonging to any private individual”

Section 2(83) of ‘the Act 2007’ is extracted hereunder:-

2. Definition.- *In this Act, unless the context otherwise requires-*

(83) "Public street" *means any street, road, lane, gully, alley, passage, pathway, square or courtyard, whether a thoroughfare or not, over which the public have a right of way, and includes-*

(a) the access or approach to a public ferry;

(b) the roadway over any public bridge or causeway;

(c) the footpath attached to any such street, public bridge or causeway;

(d) the passage connecting two public streets;

(e) the drains attached to any such street, public bridge or causeway and where there is no drain attached to any such street shall be deemed to include also, unless the contrary is shown, all land up to the boundary wall, hedge or pillar of the premises, if any, abutting on the street, or, where a street alignment has been fixed, up to such alignment;”



6. The learned counsel for the petitioner as well as the learned counsel for Nagar Parishad, Danapur have submitted that those provisions shows that Danapur-Khagaul Road and Nehru Road were vested in the Nagar Parishad, Danapur and Nagar Parishad, Danapur is authorized to give permission or licence for erecting hoardings as per Sections 145 and 146 of the Act 2007’.

7. On the other hand, the learned counsel for the State has submitted that the argument of the learned counsel for the petitioner is misconceived. Bare perusal of Section 100 shows that only the properties mentioned in Clauses (a) to (k) of Section 100 are vested in Nagar Parishad, but the properties belonging to the Government are not vested in Nagar Parishad. The Danapur-Khagaul Road and Nehru Road are maintained and constructed by the Road Construction Department. It is the property of the State of Bihar through the Road Construction Department, as such, it is not vested in Nagar Parishad, Danapur and Nagar Parishad Danapur is not authorized to grant permission or licence to erect advertisement hoardings on the land belonging to the Road Construction Department. It has been submitted that the Nagar Parishad, Danapur has also constructed and maintains some roads and streets, which are



vested in Nagar Parishad.

8. A bare perusal of Section 100 of 'the Act 2007' shows that the properties mentioned in Clauses (a) to (k) thereof have been vested in Nagar Parishad subject to the condition that they are not belonging to any Government department. The phrase **"not belonging to any Government department or statutory body"** used in Section 100 of 'the Act of 2007' clearly shows that the properties not belonging to the any Government department only were vested in Nagar Parishad. From perusal of section 100 of 'the Act 2007' also reveals that even those properties, which are enumerated under Clauses (a) to (k) are vested in Nagar Parishad. The State Government is empowered to divest those properties from Nagar Parishad by a notification. The phrase "unless the State Government directs otherwise by notification" denotes that those properties, which are not belonging to the Government department and it fall in Clauses (a) to (k) can also be divested through a notification issued by the State Government. Thus, it is amply clear that the properties belonging to the State Government department are not vested in Nagar Parishad under Section 100 of 'the Act 2007'.

9. The Additional Chief Secretary, Road Construction



Division, Bihar, Patna held a meeting dated 27.01.2021. The purpose of the meeting was for removal of unauthorized hoardings. It was decided in the meeting that there is imminent security issues due to existence of unauthorized hoardings besides the road and those hoardings were directed to be removed. The hoardings have been erected in violation of the provision of the IRC Code. Since the hoardings are hazardous for traffic and the existence thereof are also in violation of IRC Code, it is essential that those hoardings should be removed.

10. In my view, the respondent no.4 did not commit illegality while issuing the notice dated 10.12.2021 for removal of hoardings as existence thereof is dangerous for the road safety and they have been erected ignoring the IRC guidelines.

11. The writ application is accordingly dismissed.

(Nawneet Kumar Pandey, J)

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