

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5821 of 2023

Prakash Sharma Son of Shri Ramesh Sharma, Resident of Chhitabari, P.O. Belwa P.S. Muffasil, District Katihar, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Purnea Municipal Corporation, through the Municipal Commissioner, Purnea.
4. The Municipal Commissioner, Purnea Municipal Corporation, Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajiv Kumar Singh, Advocate
For the Respondent/s	:	Mr. Subhash Prasad Singh (GA-3)
For the Corporation	:	Mr. Prince Kr. Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

9 02-07-2024 Heard Mr. Rajiv Kumar Singh, learned counsel for the petitioner, the State as also Mr. Prince Kr. Mishra representing the Purnea Municipal Corporation.

2. The present writ petition has been preferred for the grant of following relief/s:-

“i) To issue an appropriate writ, order or direction in the nature of certiorari quashing the notice contained in memo No. 2761 dated 16.11.2022 issued under the signature of the Municipal Commissioner, Purnea Municipal Corporation whereby and whereunder a penalty of Rs. 29,68,000 /- has been imposed upon the petitioner under section



431 of the Bihar Municipal Act, 2007 for displaying advertisement on 28 Unipoles during the years 2021-22 and 2022- 23 allegedly without permission from the competent authority of the Corporation.

ii) To issue an appropriate writ, order or direction in the nature of certiorari quashing the notice contained in Memo No. 221 dated 16.01.2023 issued under the signature of the Municipal Commissioner, Purnea Municipal Corporation whereby and whereunder the Petitioner has been directed to deposit the balance amount of penalty amounting to Rs. 23,95,600/- for alleged violations of section 146 read with section 431 of the Bihar Municipal Act, 2007 failing which certificate proceedings would be initiated against the petitioner for recovery of the said amount.

iii) For the issuance of an appropriate ad interim ex parte order or direction staying the operation of the notices contained in Memo No. 2761 dated 16.11.2022 and Memo No. 221 dated 16.01.2023 during the pendency of the present writ petition since the penalty imposed vide the said notices is without any legal authority or factual basis, is arbitrary and has been imposed without providing any opportunity of hearing to the petitioner.

iv) For the issuance of any other or further order as this Hon'ble Court may deem fit in the facts and an circumstances of the case and in the interest of justice.”



3. Affidavits have been filed in the matter and pursuant to the orders passed by the coordinate Bench, the Municipal Commissioner, Purnea once again took up the matter and vide an order/memo no. 54 dated 04.01.2024 (Annexure-A to the counter-affidavit of respondent Nos. 3 and 4), the amount has been brought down to 2,54,400/- with a direction to make payment immediately.

4. Learned counsel for the petitioner submits that all the documents/materials/calculation chart would show that no dues is/are is pending against him, still, he is forced to make payment of Rs. 2,54,400/-.

5. Learned counsel appearing on behalf of the Municipal Commissioner, Purnea Municipal Corporation that once he makes the payment, the documents/chart/receipt can be taken into consideration to give a re-look to the order.

6. Learned counsel for the petitioner in that circumstance submits that he shall be clearing the amount as mandated in memo no. 54 dated 04.01.2024 in next four weeks and simultaneously will be filing a petition alongwith all the documents so that a re-look to this second order takes place.

7. In view of the said fair submission/stand taken by the petitioner and now that he is ready to make the payment



within four weeks, appreciating the same, this Court directs that if the payment is made in next four weeks and the receipt alongwith all the documents/calculation chart is presented by the petitioner after making payment, the same shall be taken into account, he may be heard, if required and one more decision is to be taken by the Municipal Commissioner, Purnea Municipal Corporation within a period of three months from the date the petition is presented by the petitioner alongwith the receipt showing payment of Rs. 2,54,400/-.

8. In case, the Municipal Corporation comes to the conclusion that the petitioner is entitled to the refund, the same shall be cleared within the period of four weeks from the date the order is passed.

9. The present writ petition is disposed of.

(Rajiv Roy, J)

Adnan/-

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