

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9425 of 2023

Binod Kumar S/o Kamta Prasad Sharma, R/o Nagala Main Road, Malsalami,
P.s. Patna City, Nagala, Bihar-800008.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Department of Finance, Government of Bihar through its Principal Secretary.
3. The Urban Development and Housing Department, Government of Bihar through its Principal Secretary.
4. The Patna Municipal Corporation through the Municipal Commissioner.
5. Bihar Urban Infrastructure Development Corporation Limited through its Managing Director.
6. The Union of India through Principal Secretary, Ministry of Housing and Urban Affairs.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Mayuri, Advocate
For the Respondent/s	:	Mr. Deepak, AC to AAG-7
For the PMC	:	Mr. Prasoon Sinha, Advocate
For the UOI	:	Mr. Kumar Gangesh Gunjan, CGC
For the BUIDCO	:	Mr. R.K. Priyadarshi, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

12 30-09-2024 Heard Ms. Mayuri, learned counsel for the petitioner,

Mr. Prasoon Sinha, learned counsel appearing on behalf of the

Patna Municipal Corporation, Mr. Rabindra Kumar Priyadarshi

representing the BUIDCO, Mr. Deepak, learned AC to AAG-7

and Mr. Kumar Gangesh Gunjan for the Union of India.

2. The present writ petition has been preferred for the

grant of following relief/s:-

*“(i) Issuance of a direction, order or
writ, including a writ in the nature of Certiorari*



quashing Memo Number 3491 dated 08.07.2022 issued by the Urban Development and Housing Department unilaterally whereby Rs 59,11,00,000 has been transferred to BUIDCo from the special package which was granted to the Patna Municipal Corporation by the Sixth Finance Commission.

(ii) Issuance of a direction, order or writ, including a writ in the nature of Certiorari quashing Memo Number 3486 dated 08.07.2022, Memo Number 3490 dated 08.07.2022, Memo Number 3487 dated 08.07.2022, Memo Number 3488 dated 08.07.2022, Memo Number 3489 dated 08.07.2022 which are all issued by the Urban Development and Housing Department unilaterally whereby a total of Rs. 511 crore has been transferred to BUIDCo from the special package which was granted to the Patna Municipal Corporation by the Sixth Finance Commission.

(iii) Issuance of a direction, order or writ, including a writ in the nature of Mandamus directing the Respondent authority to show cause as to under what provision of law was the fund belonging to the Patna Municipal Corporation transferred to BUIDCo without even seeking the consent of the Corporation regarding the same.

(iv) Issuance of a direction, order or writ, including a writ in the nature of Mandamus directing the Respondent authority



not to transfer any money which belongs to Patna Municipal Corporation during the pendency of the present case.

(v) Issuance of a direction, order or writ, including a writ in the nature of mandamus directing the Respondent Authority as to how the autonomy of the Municipal Corporation was compromised with by approving the transfer of a huge amount of almost 500 crores from the corpus of the Patna Municipal Corporation without taking any permission from it whatsoever.

(vi) Issuance of a direction, order or writ, including a writ in the nature of mandamus directing the Respondent Authority to show cause as to under what provisions of law are the core municipal functions of the Corporation being transferred to the Agency (BUIDCo) without seeking the consent of the Corporation.

(vii) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.”

3. It is the case of the petitioner that the fund that has been allotted to the Patna Municipal Corporation (hereinafter referred to as ‘the PMC’), which is an autonomous body, unilaterally, the Urban Development and Housing Department, Bihar, Patna vide memo no. 3491 dated 08.07.2022 decided to transfer huge sum of amount (Rs. 59,11,00,000/-) to the BUIDCO as special package for its use.



4. It is the case of the petitioner that the areas that have been chosen includes Khagaul, Phulwarisharif and Danapur which does not even come within 'the PMC'. Further, the approval of the Empowered Standing Committee of 'the PMC' has not been taken before said decision.

5. The respondents have countered it and submitted that it is not the decision of the Urban Development and Housing Department, Bihar, Patna, rather the State Cabinet has taken the decision and clause 18 of the recommendation of the report of the sixth State Finance Commission which talks about the same for 'the PMC' is simply a recommendation and the only decision taken by the State Cabinet will always have supremacy over it which decisions are taken for the betterment of the people of the city.

6. Learned counsel for the petitioner submits that there are number of projects which get hampered due to the said diversion of the fund and the Empowered Standing Committee will be presenting blueprint before the Department/State Government to show that how this diversion has caused financial crunch to the Corporation.

7. All the funds belong to the State Government and it is for the State Cabinet to decide how to use the same for the



betterment of its people, city/State.

8. So far as the claim of the petitioner that the said transfer of amount has led to slowing down the projects, the Committee is well within its right to approach the State Government so that they can look into the matter and present it before the State Cabinet on the point whether any extra fund is required or not.

9. However, no direction in such policy matters can be given where the State Cabinet has taken a conscious decision.

10. At this Stage, learned counsel for the petitioner submits that the Empowered Standing Committee shall be approaching the State Government/the Urban Development and Housing Department, Bihar, Patna alongwith its blueprint at an earliest.

11. If such a representation is filed alongwith proper documents, the same may be decided expeditiously.

12. The present writ petition stands disposed of.

(Rajiv Roy, J)

Adnan/-

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