

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20239 of 2021

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1. Sabi Ahmad Son of Haji Md. Sharif, Resident of Mohalla- Sipahi Tola, Madhubani, Near Badi Masjid (Rahat Nagar), P.O. and P.S. Purnea, District - Purnea.
 2. Syed Tousif Reza Son of Sri Nasir Reza, Resident of Syed Bara, Madhubani, P.O. and P.S. Purnea, District - Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Divisional Commissioner, Purnea Division, Purnea.
4. The District Magistrate, Purnea, District - Purnea.
5. The Sub-Divisional Officer, Sadar Purnea, District - Purnea.
6. Purnea Municipal Corporation, Purnea through the Administrator-cum-Divisional Commissioner, Purnea.
7. The Administrator-cum-Divisional Commissioner, Purnea Purnea Municipal Corporation, Purnea.
8. The Municipal Commissioner, Purnea Municipal Corporation, Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Awnish Kumar, Advocate
For the Respondent/s	:	Mr. Yogendra Pd. Sinha (Aag7)
		Mr. Prince Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

11 04-09-2024 Heard the parties.

2. The present writ petition has been filed for the following relief(s) :

“.....(i) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 23.10.2021 passed by the Respondent no.8 and contained in his memo no.1394 dated 23.10.2021, whereby



and where under the Respondent no.4 has been pleased to set aside the order dated 23.09.2021 issued under the signature of the Secretary to Divisional Commissioner, Purnea and contained in his memo no.2286 dated 23.09.2021 by which the petitioners were allowed for construction of one shop to both the petitioners in Khata No.1443 Plot No.2475 situated in Ward No.12/7 on their own cost which was earlier allotted to the writ petitioners in the year 2013 itself under the self employment scheme notwithstanding that both the petitioners have already constructed their shops as per the estimate prepared by the Junior Engineer of the Respondent Corporation on 06.12.2013 and its Assistant Engineer, who approved the estimated cost of the aforesaid construction on 11.12.2013 on the ground that if the land in question was allotted to the petitioners by the competent authority in the year 2013 and in pursuance of the letter of the Respondent no.7, the petitioners have already made their construction over the land which is the source of the livelihood, the cancellation of allotment in one go and without issuing a show-cause notice to the petitioner for hearing, the Respondent no.8 has been pleased to cancel such orders of Respondent no.7.

(ii) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent no.8 to produce on record the letter no.195 dated 08.02.2019 of the Sub-Divisional Officer Sadar



Purnea , and contained in letter no.195 dated 08.02.2019, whereby and where under he had allegedly stayed the construction of shop of the petitioners and on production the same may be quashed by issuance of an appropriate writ in the nature of CERTIORARI on the ground that the said order was passed by the Sub-Divisional Officer, Sadar, Purnea but without any notice to the petitioners and without providing opportunity of hearing.

(iii) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent no.8 to produce on record the order passed by the Respondent no.7 by which he has allegedly set aside the order dated 23.09.2021 issued by the Secretary to the Commissioner, Purnea Division, Purnea and contained in his memo no.2286 dated 23.09.2021 whereby and where under he was pleased to cancel the said letter on overall consideration on the facts and circumstances and on production the same may be quashed by issuance of an appropriate writ in the nature of CERTIORARI.

(iv) For a declaration that if the petitioners have constructed their shops under the permission of competent authority by their hard money, the Respondent no.8 was not justified for setting aside the order passed by the Divisional Commissioner of Division, if it was not suffering from any defect or for any other reason.”

2. In this particular case, as seen from the record, the



impugned order is passed without putting the petitioner on show cause notice or calling for his explanation. The same is contrary to law, contrary to the principles of natural justice and equity and has to be held as illegal, bad and arbitrary. This Court is therefore constrained to set aside the impugned orders dated 23.09.2021 and 23.10.2021 (Annexures P-5 and P-6) granting liberty to the respondents authority to issue show cause notice to the petitioner duly giving him an opportunity of filing his explanation within reasonable time. After receipt of the explanation from the petitioner, the authorities concerned shall pass a reasoned order giving the reasons for passing the said order.

2. It is needless to mention that before passing any order the petitioner shall be given an opportunity of hearing. Any order pass shall be communicated to the parties.

3. With the above observations, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

Raj Ranjan/-

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