

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13104 of 2024

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1. Naresh Kumar Mahto Son of Jiwachh Mahto Resident of Ward No.- 21, P.S. and District- Samastipur.
 2. Ram Babu Shah, Son of Sri Khikhar Shah Resident of Ward No.- 21, P.S. and District- Samastipur.
 3. Shyam Babu Shah, Son of Sri Khikhar Shah Resident of Ward No.- 21, P.S. and District- Samastipur.
 4. Khikhar Shah, Son of Late Ram Prakash Shah Resident of Ward No.- 21, P.S. and District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Building Construction Department, Government of Bihar, Patna.
2. The Collector, Samastipur.
3. The Samastipur Nagar Nigam, through its Executive Officer, Samastipur.
4. The Executive Officer, Samastipur Nagar Nigam, Samastipur.
5. The Nagar Ayukt, Samastipur Nagar Nigam, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ranjit Kumar Yadav
For the Resp. no. 3 to 5	:	Mr. Prince Kumar Mishra, Adv. Mr. Vikas Kumar Jha, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 30-09-2024 Heard Mr. Ranjit Kumar Yadav, learned counsel for

the petitioner and Mr. Prince Kumar Mishra representing the

State.

2. The present writ petition has been preferred for the

following relief(s):

*“for issuance of a writ in the
nature of Certiorari to quash the Order
dated 21.06..2024 as contained in memo no.*



1848 dated 24.06.2024 of the Respondent no.4 and further for issue of a writ in the nature of Mandamus and/or any other appropriate writ, order or direction commanding upon the respondents to pass the Trace Map for construction/reconstruction of the residential building of the petitioners according to Bye-laws 22(2) of the Bihar Building Bye-laws, 2014 (as amended in 2022).”

3. The matter relates to a piece of land under Samastipur Municipal Corporation and the case of the petitioner is that pursuant to the order passed by a Coordinate Bench in CWJC No. 5832 of 2023, the case of the petitioner was taken up by the Municipal Commissioner, Samastipur , an inquiry was conducted and the inquiry report (Annexure C to the counter affidavit) shows that the part of his land is near that river and as such, under Section 3 of Section 23 with Bye laws 2022 (2) of the Bihar Building Bye Law 2014 as amended in the year 2022), no permission for construction can be given.

4. It is the consistent case of the petitioner that the said inquiry report was never handed over to him warranting his response whereafter, decision could have been taken.

5. Taking into account the aforesaid facts, on 02.09.2024, the matter was adjourned with a direction to the



Samastipur Municipal Corporation to file counter affidavit.

6. A reply has come through Mr. Prince Kumar Mishra and paragraph 7 read as follows:

“That thereafter 3 Member inquiry team submitted its report on 14.06.2024, stating inter-alia that upon a spot inspection of the place, it was found that the proposed construction falls within the boundary of river and as such no permission for construction can be given. It is submitted that said report was submitted to Municipal Commissioner, Samastipur. It is submitted that copy of said report was not given to petitioners, neither any of the petitioners, demanded the copy of inquiry report.”

7. From the aforesaid facts, it is clear that the petitioner was never handed over the inquiry report and/or his response was sought for before an order was passed.

8. Any order based on a report which was never provided to the petitioner has got no meaning.

9. In that background, the order dated 21.06.2024 as contained in memo no. 1848 dated 24.06.2024 issued by the respondent no. 4 (Annexure P/7 to the writ petition) issued under the signature of the Municipal Commissioner, Municipal Corporation, Samastipur is set aside.



10. The concerned respondent is duty-bound to conduct a fresh inquiry in the presence of the petitioner and the signature be obtained on the said inquiry report and in case, he/his representative declines to sign the report, the same shall also be incorporated in the said report.

11. After providing him the inquiry report and seeking response as also after considering it, an order has to be passed.

12. The writ petition stands disposed of.

(Rajiv Roy, J)

Vijay Singh/-

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