

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1222 of 2024

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Bhamashah Foundation having registered office at Arya Kumar Road, Machhua Toli, Barh (Kothi), P.S. - Kadamkuan, P.O.- Bakipore, District- Patna through its trustee Vijay Kumar son of Late Deonand Prasad, aged about - 67 years, Gender- Male, resident of Arya Kumar Road, Machhua Toli, Barh (Kothi), P.S. - Kadamkuan, P.O.- Bakipore, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Housing Department, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development Housing Department, Government of Bihar, Patna.
3. The Patna Municipal Corporation, through Municipal Commissioner, Maurya Lok, Dak Bunglow Road, Police Station- Kotwali, District - Patna.
4. The Municipal Commissioner, Patna Municipal Commissioner, Maurya Lok, Dak Bunglow Road, Police Station- Kotwali, District - Patna.
5. The Additional Municipal Commissioner, Patna Municipal Commissioner, Maurya Lok, Dak Bunglow Road, Police Station- Kotwali, District - Patna.
6. The Executive Officer, New Capital Circle, Patna Municipal Corporation, Patna.
7. The City Manager, New Capital Circle, Patna Municipal Corporation, Patna.
8. The Revenue Officer, New Capital Circle, Patna Municipal Corporation, Patna.
9. The Encroachment Officer, New Capital Circle, Patna Municipal Corporation, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Amit Kumar Jha
For the Respondent/s	:	Ms.Divya Verma, AC to Addl. Advocate General 3
For PMC	:	Mr. Prasoon Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 07-10-2024 Heard Mr. Amit Kumar Jha, learned counsel for the

petitioner duly assisted by Mr. Deepak Singh, learned counsel,

Ms. Divya Verma, learned AC to AAG-3 and Mr. Prasson Sinha,

learned counsel representing Patna Municipal Corporation.



2. The present writ petition been preferred the grant of following reliefs:-

"(i) For issuance of order, direction or writ of Mandamus or any other appropriate writ for directing the compensate the co respondent authorities petitioner to to the tune of Rs. 5,24,480/- lakhs for illegally demolishing the Bhamashah Bhojan Seva Kendra situated at Budh Marg, Gaya Road, south of Mazar without notice and taking away the utensils and articles from therein by the respondent authorities despite the fact that same was being run after the due permission from the Municipal Corporation, Patna for providing affordable food to the underprivileged, poor and needy.

(ii) For issuance of order, direction or writ of Mandamus or any other appropriate writ for directing the respondent authorities to rebuild the Bhamashah Bhojan Seva Kendra at Budh Marg, Gaya Road, south of Mazar and allow the petitioner to run the same as it provides affordable, nutritious food underprivileged, poor and needy. to the

(iii) For issuance of order, direction or writ of Mandamus or any other appropriate writ for taking appropriate action against the erring officers who have worked in dictatorial manner at their whim without giving any hid to the law or the procedure established by the law."

3. The case of the petitioner is that the Bhamashah Foundation is a registered trust situated in Patna engaged in different social, charitable, philanthropic works providing vehicle for the dead bodies and also cremation. Additionally, it



provides quality food at Rs. 15/- only to the underprivileged, needy and the poor persons. The case is that the Patna Municipal Corporation earlier provided a piece of land on temporary basis at Budha Marg, Patna-Gaya Road, south of Mazar but on 30.11.2023, the employees of the Corporation without any prior notice demolished the said place and took away all the articles/utensils, raw materials, furniture on the truck causing huge loss to the petitioner. This followed the representation dated 01.12.2023 to the Municipal Commissioner, Patna Municipal Corporation and as no response, this writ petition.

4. A counter affidavit has been filed on behalf of Patna Municipal Corporation duly signed by its Executive Officer and paragraph-10 and 11 read as follows:-

“10. That the statements made in paragraph no.12 of the writ petition under reply, contain distorted and misleading facts. It is humbly stated that during the drive for removal of encroachment, the petitioner was directed to remove his belongings, but petitioner did not remove his belongings, as a result thereof goods and articles were seized. The petitioner was directed to take collect the seized goods/articles from the office of the PMC But the petitioner has not yet collected.

11. That it is humbly stated that the land was made available to the petitioner temporarily by the PMC with the condition that



the PMC can take back its land as per its requirement, without prior notice. It is further stated that the aforesaid land was made available to the petitioner without any payment of money and free of cost for a temporary period. The land in question was required for the larger public interest, for development of a multi-level parking by BUIDCO under Smart City Mission, Bihar.”

5. The claim of the petitioner has been proved inasmuch as the Patna Municipal Corporation has acknowledged that it removed the article from the temporary place allotted to the petitioner, seized and further asked him to get it collected without any notice to the petitioner. It is important to note that paragraph-12 of the petition says that the employees of the Corporation without prior notice or information demolished the Bhamashah Bhojan Seva Kendra situated at Budha Marg, Patna Gaya Road and took away all the articles, utensils, raw materials, furniture, food items on their truck.

6. It has been informed by learned counsel for the Patna Municipal Corporation that subsequently, their multi layer parking is being constructed for the benefits of the Patna people.

7. For developing any piece of land, ‘the PMC’



cannot give a go by to the law of the land when it is their own case that it was given to the petitioner on temporary basis. The least that was expected from the mighty ‘PMC’ was to issue notice to the petitioner.

8. Having not done so, ‘the PMC’ cannot be allowed to go scot-free. As the multi layered parking construction is now at an advance stage, as informed, though the same cannot be restored, the petitioner has to be compensated besides the articles that have been taken away by the respondents.

9. Accordingly, ordered. ‘The PMC’ shall be paying a cost of Rs. 50,000/- to the petitioner in four weeks from today and shall also ensure that all the articles seized are returned.

10. The Municipal Commissioner, Patna Municipal Corporation is free to fix the responsibility on the persons who committed the illegal act and realize the amount from him/her.

11. The writ petition stands disposed of.

(Rajiv Roy, J)

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