

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5611 of 2019

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Mumtaz Hasan Faizi Son of Late Badrul Hasan, Resident of 2/41, Janta Press
Gali, Minhaj Nagar, Town and P.S.-Phulwari Sharif, Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development
Department Govt. of Bihar
2. The Collector-Cum-District Magistrate, Patna
3. The Executive Officer, Nagar Parishad, Phulwari Sharif, District-Patna
4. The Junior Engineer, Nagar Parishad, Phulwarisharif, Patna
5. The Circle Officer Phulwarisharif, Patna
6. The S.H.O. Phulwarisharif, Patna
7. Sri Pappu Chand Son of Cina Miyan Resident of Village-Naya Tola, Near-
Dr. Jainul Abedin, Phulwarisharif, District-patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar Singh, Adv
For the Respondent/s	:	Mr. Yogendra Prasad Sinha (Aag 7)
For Nagar Parishad	:	Mr. Anil Kumar, Adv
		Mr. Keshab Raj, Adv

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

10 06-08-2025 Heard learned counsel for the petitioner, learned
counsel for the Nagar Parishad, Phulwari Sharif and learned
counsel for the State.

2. In the present writ application, the petitioner has
contended that road construction work is being carried by
respondent no. 3 i.e. the Executive Officer, Nagar Parishad,
Phulwari Sharif, Patna in contravention of the direction of this
Court passed in CWJC No. 4839 of 2010. The extract of the



following observations made by the Division Bench of this Court are as follows:

“(iv) Till new methods are taken recourse to for the purpose of construction of the road appropriate and adequate measures shall be taken by constructing the roads in such a manner that the height of the roads are not increased ordinarily beyond the Plinth area and under no circumstances cause any inconvenience to the inhabitants of the locality.

(v) Wherever the height of the road is increased as a result of which inhabitants are affected, they are at liberty to bring it to the notice of the Collector-cum-District Magistrate of the District who shall look into the same in quite promptitude and take appropriate action by bringing it to the notice of the experts.

(vi) The notice inviting tender for repair, maintenance and construction of work shall carry the stipulations which have been incorporated herein so that the contractors who are assigned the work do not behave in their own manner creating inconvenience and disturb the life pattern of the citizens by increasing the height of the roads.”

3. It is contended on behalf of petitioner that the



height of construction of the road is above the plinth area which is going to adversely affect the local residents including the petitioner, who had got the residential houses by the side of the said road. By order dated 28.03.2019, this Court had taken notice of the submissions made by learned counsel for the petitioner and had ordered for maintaining status quo.

4. Learned counsel for the petitioner submits that the order of *status quo* passed by this Court has been flagrantly violated and the construction of the road has been completed for which he has filed I.A. No. 02 of 2019 for initiation of contempt proceeding.

5. Learned counsel appearing for the Nagar Parishad, Phulwari Sharif submits that he has submitted a show cause reply to I.A. No. 02 of 2019 and in paragraphs 3 to 11, it has been stated as follows:

“3. That the instant Interlocutory Application is being filed by the writ petitioner for initiation of contempt proceeding against the respondent for their wilful contravention and non-compliance of the judicial orders dated 28.03.2019 passed in C.W.J.C. No. 5611 of 2019 whereby the Hon'ble Court directed the respondent to maintain the 'status-quo' in the matter of construction of a drainage and a road over



the drainage, which was being made by the respondent authorities.

4. That it is respectfully submitted that vide order dated 28.03.2019 the Hon'ble High Court has issued notice to the answering respondents and also directed to maintain status quo in this matter. Thereafter, the Executive Officer, Nagar Parishad, Phulwari Sharif issued Letter No. 561 dated 06.04.2019 to the contractor and directed to comply the order of the Hon'ble Court till further order (Annexure-B of the Counter Affidavit).

5. That it is stated and submitted that without giving any information to the Nagar Parishad, Phulwari Sharif or the office of the respondent authorities has completed the construction work of the road and drainage under the said scheme with the support of the local people of the said ward.

6. That it is made clear that no amount has been released/paid in favour of the contractor in this scheme.

7. That the answering Respondent respectfully submits that no contempt of any order of this Hon'ble Court has been committed and the Nagar Parishad, Phulwari Sharif has at all times acted within the framework of law, and there has been no deliberate disobedience or defiance of any



judicial order.

8. That it is stated and submitted that a letter has been issued by the office of Nagar Parishad, Phulwari Sharif vide Memo No. 504 dated 12.04.2024 address to Junior Engineer, Nagar Parishad, Phulwari Sharif regarding demolition of PCC road constructed in Minhaj Nagar of Ward No. 02 under Municipal Council, Phulwari Sharif.

9. That in response to the same a letter was issued on 24.04.2024 by the Junior Engineer, Nagar Parishad, Phulwari Sharif addressed to Executive Officer, Nagar Parishad, Phulwari Sharif in which it has been mentioned that on 23.04.2024 an attempt was made to break the P.C.C. Road from the house of Minhaj Nagar to the house of Late Yasin Astari in Minhaj Nagar of Ward No. 02 through the hammer machine but there was a lot of opposition from the residents of the locality and the work of breaking the P.C.C. Road was immediately stopped. Due to which the Junior Engineer have been physically harmed and it has also been stated by the local people that this road was built by the residents of the locality themselves with their own money, and it has not been built using govt. funds. Due to which the PCC was not allowed to be demolished.



10. That the office of Executive Officer, Nagar Parishad, Phulwari Sharif received a letter on 23.04.2024 by the local people of said area in which it has been stated that the local people with their own financial contribution, the PCC road was constructed which is absolutely right for them and made prayer to withdraw the order of demolishing the said PCC Road.

11. That with regard to the claim of the petitioner concerning construction work allegedly undertaken under the authority of Nagar Parishad, it is categorically submitted that no payment has been made till date, as no approved estimate, no formal work order and no budgetary sanction exists for the said work in the office records of Nagar Parishad, Phulwari Sharif.

6. It is, therefore, the specific case of the Nagar Parishad, Phulwari Sharif that they have not violated the *status quo* order and that it is the local people who have completed the construction work of the road and drainage. It is the further case of Nagar Parishad, Phulwari Sharif that a letter was issued on 24.04.2024 by the Junior Engineer, Nagar Parishad, Phulwari Sharif addressed to the Executive Officer, Nagar Parishad, Phulwari Sharif in which it had been mentioned that on



23.04.2024 an attempt was made to break the PCC road from the house of Minhaj Nagar to the house of late Yasin Astari in Minhaj Nagar of Ward No. 02 by using the hammer machine but there was a lot of opposition from the residents of the locality and the work of breaking PCC road was immediately stopped. It has been further contended by Nagar Parishad, Phulwari Sharif that while trying to carry out the demolition, the Junior Engineer was also physically harmed.

7. Learned counsel for the petitioner as well as learned counsel appearing for Nagar Parishad, Phulwari Sharif submits that this writ application may be disposed of directing the District Magistrate, Patna to provide Magisterial force to the Nagar Parishad, Phulwari Sharif to remove the illegal construction of the road and the drainage from the street of Janta Press Gali, Minhaj Nagar, Phulwari Sharif, Patna which has taken place in violation of this Court's order dated 28.03.2019.

8. For the reasons as stated above, this writ application is disposed of directing the District Magistrate, Patna (respondent no. 2) to provide enough Magisterial force to the Nagar Parishad, Phulwari Sharif to remove the illegal construction of road and drainage from the street mentioned above. The entire exercise must be carried out by the Nagar



Parishad, Phulwari Sharif within one month from the date of passing of this order.

9. With the aforesaid observation/direction, this writ application is disposed of. All pending interlocutory application(s), if any, shall also be deemed to have been disposed of.

(Alok Kumar Sinha, J)

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