

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1 of 2025

In
Civil Writ Jurisdiction Case No.17538 of 2024

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Swati Agrawal Daughter of Late Ramesh Chand Agrawal, Resident of Purnea
Market, Bhatta Bazar, P.S. K Hat, District - Purnea.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Purnea Municipal Corporation, Purnea through its Municipal Commissioner, Municipal Corporation, Purnea, Bihar.
3. The Municipal Commissioner, Purnea Municipal Corporation, District- Purnea, Bihar.
4. The District Magistrate, Purnea, Bihar.
5. The Superintendent of Police, Purnea, Bihar.
6. The Sub Division Officer, Purnea, Bihar.
7. The Execution Engineer, Electricity Supply Division, East and West Purnea, Bihar.
8. The Incharge of Building Maps Purnea Municipal Corporation, District Purnea, Bihar.
9. Sri Nawal Kumar @ Nawal Kumar Jaiswal S/o Sri Raj Kumar Chaudhary, Resident of Parwati Hat, Bhatta, P.s. Khajanchi Hat, District- Purnea.
10. Sri Lokesh Kumar Jaiswal Son of Sri Raj Kumar Chaudhary, Resident of Parwati Hat, Bhatta, P.s. Khajanchi Hat, District- Purnea.
11. Sri Vijay Kumar Jaiswal Son of Sri Raj Kumar Chaudhary, Resident of Parwati Hat, Bhatta, P.s. Khajanchi Hat, District- Purnea.
12. Laxman Kumar Mishra Son of Ram Pradarth Mishra Resident of Parwati Hat, Bhatta, P.S. Khanjanchi Hat, District- Purnea.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Kamal Nayan Choubey, Sr. Advocate Mr. Ashok Kumar Garg, Advocate Mr. Dineshwar Pandey, Advocate
For the Purnea Municipal Corporation	:	Mr. Satyabir Bharti, Sr. Advocate Mr. Prince Kumar Mishra, Advocate Ms. Priyanka Kumari, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA



ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-02-2026

This Letters Patent Appeal has been filed by Swati Agrawal challenging the order dated 17.12.2024 passed by the learned Single Judge in CWJC No. 17538 of 2024. The writ petition was filed by the petitioner seeking for following reliefs:

“(i) To issue a writ/order/direction in the nature of certiorari to set aside order dated 06.09.2024 passed by the Chairman, Municipal Building Tribunal-1, Bihar, Patna in Appeal No.22 (N)/2023 (arising out of Vigilance Case No.09/2022-23 of Purnea Municipal Corporation) whereby and whereunder without interfering with the order passed in Vigilance Case No.09/2022-23 dated 03.11.2022 the appeal of the petitioner was dismissed with a direction that if the petitioner submits any map plan for post facto sanction to the Purnea Municipal Corporation, the corporation shall consider the said map submitted by the petitioner for regularizing the building in question within the ambit and scope of relevant building byelaws.

(ii) To issue a writ/order/direction in the nature of certiorari to set aside order dated 03.11.2022 passed by the Municipal Commissioner, Municipal Corporation Purnea in Vigilance Case No.09/2022-23 whereby and whereunder Sri Ramesh Chandra Agrawal (father of the petitioner) was held guilty of violating of Section 314 of the Bihar Municipality Act, 2007 and was fined Rs.10,00,000/- under section 315 of Bihar Municipality Act for violating Building Byelaws and constructing a permanent structure and further the said structure was directed to be sealed under Rule 16 (Kha) of Bihar Building Byelaws 2014.

(iii) To pass interim / ex-parte interim order staying order dated 06.09.2024 passed by the Chairman, Municipal Building Tribunal-1, Bihar, Patna in Appeal No.22 (N)/2023 (arising out of Vigilance Case No.09/2022-23 of Purnea Municipal



Corporation) whereby and whereunder without interfering with the order passed in Vigilance Case No.09/2022- 23 dated 03.11.2022 the appeal of the petitioner was dismissed with a direction that if the petitioner submits any map plan for post facto sanction to the Purnea Municipal Corporation, the corporation shall consider the said map submitted by the petitioner for regularizing the building in question within the ambit and scope of relevant building byelaws, during the pendency of the present writ application.

(iv) To pass interim / ex-parte interim order dated 03.11.2022 passed by the Municipal Commissioner, Municipal Corporation Purnea in Vigilance Case No.09/2022-23 whereby and whereunder Sri Ramesh Chandra Agrawal (father of the petitioner) was held guilty of violating of Section 314 of the Bihar Municipality Act, 2007 and was fined Rs.10,00,000/-under section 315 of Bihar Municipality Act for violating Building Byelaws and constructing a permanent structure and further the said structure was directed to be sealed under Rule 16 (Kha) of Bihar Building Byelaws 2014, during the pendency of the present writ application.”

2. The learned Single Judge vide impugned order dated 17.12.2024 passed in CWJC No. 17538 of 2024, has been pleased to hold as follows:-

“14. It is an admitted fact that the building has been constructed without sanctioning of the map/building plan which is a violation of Section 314 of the Act 2007. Though it is the averment of the petitioner that a building plan/map has been submitted to the Municipal Corporation for its approval but this averment is denied by the Municipal Corporation. There is no evidence at all showing that the petitioner has applied for sanctioning of the building plan or map. The Municipal Building Tribunal, vide order dated 06.09.2024, directed the petitioner to submit a building plan/map for post-facto sanction to the Purnea Municipal Corporation



and it was also observed that the Corporation shall consider the said map submitted by the appellant for regularizing the building in question within the ambit and scope of the relevant bye-laws.

15. I do not find any illegality, impropriety or irregularity in the order dated 06.09.2024 passed by the Municipal Building Tribunal-01 in Appeal No.22(N) 2023 as well as in order dated 14.11.2024 as contained in memo no. 4847, passed by the Municipal Commissioner, Municipal Corporation, Purnea.”

3. It has been submitted that the building which has been sealed is entirely different from the building in respect of which the notice was issued and, therefore, the order of sealing of the premises is wholly arbitrary and frustrates the ends of justice. It is further contended that the Municipal Commissioner, Purnea Municipal Corporation has imposed the maximum penalty which was neither proper nor justified. The order of the Commissioner imposing such penalty therefore suffers from non application of mind.

4. Per contra, the learned senior counsel appearing on behalf of the Purnea Municipal Corporation submits that the contention advanced by the learned counsel for the appellant was neither raised before the writ court nor earlier before any of the competent authorities and, therefore, such a plea cannot be entertained for the first time in the present Letters Patent Appeal. It is further pointed out that Section 313, 314, and 315



of the Bihar Municipal Act, 2007 deals respectively with the prohibition of construction without sanction; sanction of building plans and construction raised in contravention to the building by-laws, for which penal consequences are prescribed.

5. The learned senior counsel for the Purnea Municipal Corporation further submits that during the pendency of the proceedings before the Municipal Building Tribunal, an order dated 06.09.2024 was passed directing the appellant to submit the building plan/map before the corporation for *post-facto* sanction. The Tribunal observed that the Corporation shall examine the said plan/map for the purpose of regularisation of the building in question, strictly in accordance with the applicable building by-laws. It was contended that pursuant to and in compliance with the aforesaid order dated 06.09.2024 passed by the Chairman, Building Tribunal, the appellant submitted the plan/map seeking *post-facto* approval. Having acted in consonance with the said order, the appellant was not justified in assailing the same before the writ court. It was further submitted that the competent authority, namely the Municipal Commissioner, declined approval of the plan/map on the ground of non-submission of requisite documents, namely:

(i) record of rights/original sale deed/lease deed/deed of the



court (ii) rent receipt (iii) Corporation holding receipt (iv) land possession certificate (v) development agreement between the land owner and the builder, if any.

6. The learned senior counsel appearing for the Purnea Municipal corporation also submits that Bihar Municipal Act, 2007 provides a specific statutory remedy inasmuch as, any person aggrieved by an order passed by the Chief Municipal Officer, in the present case the Municipal Commissioner, may prefer an appeal under Section 323(3) before the Municipal Building Tribunal constituted under Section 329 of the Bihar Municipal Act, 2007. It was further contended that once an efficacious alternative remedy is available to the appellant against the rejection of the plan/map seeking *post-facto* sanction, the present Letters Patent Appeal is wholly misconceived.

7. The Bihar Municipal Act, 2007 was enacted to consolidate and amend the laws relating to the Municipal Government in the State of Bihar in conformity with the provisions of the Constitution of India as amended by the Constitution (74th Amendment Act, 1992). The Act is founded on the principles of decentralization; participatory governance; autonomy, and accountability of urban local bodies at various



levels, and seeks to introduce reforms in financial management and accounting system, enhance internal resource generation capacity and strengthen organizational design of municipalities, to ensure professionalization of the municipal personnel and regulate matters connected therewith or incidental thereto. In Part-I of the Chapter-1 of Bihar Municipal Act, 2007, the expression “Chief Municipal” Officer has been defined under Section 2(21) which clearly states that in relation to a Municipal Corporation, the Chief Municipal Officer is the Municipal Commissioner whereas in relation to a Municipal Council or Nagar Panchayat it refers to the Municipal Executive Officer. Chapter-XXXVI of the Bihar Municipal Act, 2007 deals with buildings and Section 313, falling under the said chapter, places a statutory prohibition on the construction of any building or permanent structure or the execution of any work relating to construction of building including addition, alteration or modification of an existing building, within any municipal area, save and except in accordance with the applicable building bye-laws. Section 314 of Bihar Municipal Act, 2007 prescribes the procedure for sanction of building plans, while Section 315 provides for the imposition of penalty in cases where construction of the building is carried out in contravention of the



building bye-laws.

8. The Bihar Building Bye Laws, 2014 have been framed in exercise of the powers conferred under Section 321 of the Bihar Municipal Act, 2007 and Section 81(2)(w) of the Bihar Urban Planning and Development Act, 2012 and the Bihar Building Bye Laws, 2014, as amended in the year 2022 prescribes Form No.II, namely the 'Building Plan Application Form' which enumerates the documents required to be furnished by an applicant seeking permission to erect, re-erect, demolish or carry out any addition or alteration a building.

9. When the matter was placed before the Municipal Building Tribunal, an order dated 06.09.2024 was passed directing the appellant to submit a building plan/map before the Purnea Municipal Corporation for the purpose of *post-facto* sanction. The Tribunal further observed that the Corporation shall consider the plan/map submitted by the appellant for regularization of the building in question strictly within the ambit and scope of the relevant building bye-laws. Pursuant thereto, the appellant submitted the building plan/map seeking *post-facto* sanction before the Purnea Municipal Corporation, which necessarily presupposed that no prior approved building plan/map existed. Upon scrutiny, the competent authority found



that the requisite documents, as mandated under the applicable bye-laws, has not been furnished along with the application. Consequently, the application for *post-facto* sanction was rejected by order dated 15.01.2025, as contained in Annexure-R/5 to the counter affidavit.

10. In view of the aforesaid facts and statutory scheme, this Court finds substance in the submission advanced on behalf of the corporation that an efficacious alternative statutory remedy is available to the appellant against the order of rejection as clearly delineated under sub-section (3) of Section 323 of the Bihar Municipal Act, 2007.

It provides that if any person aggrieved by an order of the Chief Municipal Officer, in the present case the Municipal Commissioner under sub section (1), he may prefer an appeal within a period of 30 days from the date of order before the Municipal Building Tribunal constituted under Section 329 of the Bihar Municipal Act, 2007. The Municipal Building Tribunal has been constituted by the State Government to hear and decide appeals arising out of orders relating to the sanction of building plans by the Municipal Authorities, in accordance with the prescribed procedure, and to realise such fees in connection with such appeals as may be notified by the



Government under Section 329 of the Bihar Municipal Act, 2007. In view of the aforesaid statutory framework we are of the considered opinion that once the appellant, in compliance with the order dated 06.09.2024 passed by the Municipal Building Tribunal, submitted the building plan/map seeking *post-facto* approval before the competent authority, it was not open to the appellant to assail the very same order by invoking the writ jurisdiction of this Court. We also find that learned Single Judge was fully justified in holding that no illegality, impropriety or procedural irregularity is discernible in the order dated 06.09.2024 passed by the Municipal Building Tribunal in Appeal No. 22(N)/2023 (arising out of Vigilance Case No.09/2022-23 of Purnea Municipal Corporation) as well as the order dated 03.11.2022 passed by the Municipal Commissioner of Municipal Corporation, Purnea.

11. It is a settled proposition of law that, in a Letters Patent Appeal, the Division Bench ordinarily ought not to interfere with the findings of fact recorded by the learned Single Judge, unless such findings are demonstrated to be wholly unsupported by evidence, perverse, manifestly unreasonable or contrary to settled principle of law. The scope of interference in appellant jurisdiction under a Letters Patent Appeal is



circumscribed and limited. Such jurisdiction is essentially corrective in nature and is exercised sparingly, only to rectify patent errors, if any.

12. Upon a careful consideration of the impugned order passed by the learned writ Court, we are of the considered view that no perversity can be attributed thereto. This conclusion is further fortified by the fact that an efficacious, alternative remedy is available with the Appellant to challenge the order passed by the Commissioner before the Municipal Building Tribunal, in accordance with law. In such circumstances, interference in exercise of writ jurisdiction is neither warranted nor justified.

13. Needless to say that since the period prescribed for filing the appeal under Section 323(3) of Bihar Municipal Act, 2007 is already over, if an application is filed for condoning the delay, the same shall be favorably considered by the Municipal Building Tribunal and appeal shall be heard on merits.

14. Accordingly, the Letters Patent Appeal is devoid of merit and is hereby dismissed with liberty as aforesaid to file an appeal under Section 323(3) of the Bihar Municipal Act, 2007 within 30 days from the date of passing of this order.

15. All pending I.As, if any, stands disposed of.



16. It is made clear that the Court has not expressed any opinion on the merits of the claim of the appellant.

(Sangam Kumar Sahoo, CJ)

(Alok Kumar Sinha, J)

ranjan/prakash-

AFR/NAFR	
CAV DATE	NA
Uploading Date	11.02.2026
Transmission Date	NA

