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**(2001) 06 PAT CK 0044**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 2131 of 1987**

Anil Kumar Tiwary

APPELLANT

Vs

The Patna Mun. Corporation and Others

RESPONDENT

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**Date of Decision :** 19-06-2001

**Acts Referred:**

**Citation :** (2001) 3 PLJR 639

**Hon'ble Judges :** Ravi S. Dhavan, C.J.;Aftab Alam, J

**Bench :** Division Bench

**Advocate :** Party in Person, for the Appellant; B.M. Singh and Shrawan Kumar, for the Respondent

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## Judgement

Ravi S. Dhavan, C.J. and Aftab Alam, J.—Mr. Anil Kumar Tiwary, the Petitioner and also a member of the Bar at the High Court, brought this petition in 1987 as a Public Interest Litigation seeking reliefs to the effect that the Chief Executive Officer of the Patna Municipal Corporation, Patna, Respondent No. 2 be put under a writ of mandamus to reconstruct the drain of Block A in Mohalla Boring Canal Road, Police Station Kotwali within the District of Patna Ward No. 33 old and new Ward No. 4. The details of the road are given in annexure 1. It was further prayed that pits and holes of the public street as is referred to in Block A of annexure 1 be filled and repaired and the road be rendered fit for pedestrian and vehicle traffic. It was also prayed that public drains be rendered serviceable so that there is no over flow of water from the drain.

2. Over last 14 years since this petition had been pending, today the Petitioner mentions that in so far as the drains are concerned this aspect has been taken care of by the Patna Municipal Corporation. But in so far as road is concerned, the contention is that the whole of it has not been repaired and the extent of which the road has received attention, it is so because of the "important political" or "very important persons" who reside on this road. The entire road has yet to receive attention of the Corporation.

3. To resist the petition of the Petitioner a Health Officer of the Patna Municipal Corporation was making a statement in an affidavit dated 7 September, 1987 as if as a reaction that the State is about to supersede the municipality and the attributes which come with it in the corporate body which is known as Patna Municipal Corporation. The Court has reservations whether the State official can react to a situation to suggest to the Court that the Government is contemplating to supersede a local body which is meant to be a first step for grass root democracy. The statement of the Health Officer that the State is proposing to supersede the Patna Municipal Corporation is contained in paragraph 27 of the supplementary affidavit filed on behalf of the Corporation on 17 September, 1987.

4. The question which arises is whether the High Court is equipped to run the administration of local bodies like Municipalities and Corporations? Superseding a Municipal Corporation is an abnormality and is against the grain of the Constitution of India. Keeping local bodies superseded beyond period as mentioned in the Constitution is an ultra vires act of the State. The State of Bihar is obliged to take immediate steps to ensure that the Municipalities and the Corporations within the State function with elected representatives. To this extent this petition is alive.

5. Place this matter with other similar issues relating to Municipalities and Corporations being C.W.J.C. No. 5188 of 1998.