

(2004) 03 JH CK 0103
In the Jharkhand High Court
Case No : CWJC No. 702 of 1996 (R)

Gamaria Nagrik Samiti and Another

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 22-03-2004

Acts Referred:

Bihar Municipal Act, 1922 — Section 390C
Constitution of India, 1950 — Article 226

Citation : (2004) 3 JCR 262a

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : T.K. Das, for the Appellant; Pradip Modi, GP-1, for the Respondent

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—In this application, the petitioner has prayed for quashing of the demand notice dated 14.12.1995 as contained in Annexure-1 to the writ application, issued by the office of the Adityapur Notified Area Committee, Adityapur, whereby, the petitioners have been asked to deposit the House-tax and other Tax. Petitioners have challenged the issuance of Annexure-1, demanding tax, only on the ground that the Notified Area Committee has no right to ask the petitioners to pay the tax, as the term of five years of Notified Area Committee had already expired from the date of its constitution, therefore, in the eyes of law it has ceased to exist.

2. It has been submitted by the learned counsel for the petitioners that after 1994, the Notified Area Committee cannot be said to be in existence and, therefore, the notice issued as contained in Annexure-1 is without jurisdiction. It is submitted that Adityapur Notified Area Committee was constituted on 8.9.1989 and, therefore, it has already completed its term of five years in 1994.

3. Section 390-C of the Bihar Municipal Act, 1922, as amended is relevant to be noticed in this regard which reads as under :--

"Savings.--(1) The Municipalities, and the Notified Area Committees on the commencement of this Ordinance shall cease to function and the same shall be constituted in the manner and under the provisions of this Act and such area may be declared, by notification in accordance with the provisions of Sub-clause (i) and (ii) or Clause (a) of Sub-section (1) of Section 4 of the Act as Municipal Council or Nagar Panchayat, as the case may be :

Provided that in any Municipal Area of Notified Area or part thereof is in the opinion of the State Government not capable of being declared as a Municipality under the provisions of this Act, such area or part thereof may be governed by the provisions of the Bihar Panchayat Raj Act, 1993 (Bihar Act, 1993) :

Provided further, notwithstanding the provisions of this Act, the Municipality and the Notified Area Committee which were validly constituted under the B. and O. Municipal Act, 1922 (B. and O. Act. 7, 1922) shall continue to function till the constitution and the first meeting of the Municipality."

4. Therefore, it is clear that the main section envisages that the Municipalities and the Notified Area Committees shall cease to exist after commencement of the ordinance but the second proviso saves the existence of Municipalities/Notified Area Committees till regular Municipalities/Notified Area Committees are constituted.

5. According to the second proviso the Municipalities/NAC shall continue to function till the constitution and the first meeting even if their tenure has expired. Therefore, the submission of the learned counsel for the petitioner is devoid of any merit.

6. Accordingly, I find no merit in this application, thus the same is dismissed.