

(2020) 02 PAT CK 0086

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 2519 Of 2020

M/s Hotel Mangal Shree

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 24-02-2020

Acts Referred:

Bihar Municipal Act, 2007 — Section 205

Citation : (2020) 02 PAT CK 0086

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Subodh Kumar Jha, Ashok Kumar Gupta, Askhilesh Kumar Sinha, Priyadarshi Matri Sharan

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner; learned AC to SC 19 for the State and learned counsel for the Nagar Parishad, Bettiah (hereinafter

referred to as the "Nagar Parishad").

2. The petitioner has moved the Court for the following reliefs:

"That this writ application is being filed for issuance of an appropriate writ/writs, order/orders in the nature of certiorari for quashing

of the letter bearing Memo No. 1588 dated 18.10.2019 issued under the signature of Executive Officer Nagar Parishad Bettiah, Respondent

No. 4 by which the respondent No. 4 has directed the office to issue notice to the petitioner for removal of alleged encroachment of Khesra

No. 6075/04 under Section 205 of Bihar Municipal Act 2007 and in case of non compliance of the said notice the structure should be

removed forcefully over the said plot, without considering the show cause filed by the petitioner in compliance of order dated 30.9.2019

passed in C.W.J.C. No. 18690/2019 to the extent that the petitioner had constructed the hotel "Mangal Shree" after due approval of the

map by all the concerned authority including the Nagar Parishad Bettiah and further for issuance of a writ in the nature of mandamus for

directing the respondent No. 3 Nagar Parishad Bettiah to forthwith repair the Broken structure of concrete slab in front of the hotel by

covering the drainage for the reason that the construction of hotel has been made over the rayati/purchased land of the petitioner without

even a single inch of encroachment. Since the drainage in front of hotel and covering slab of drainage has been broken by the

respondent No. 3 by J.C.B. Machine only to put the petitioner in loss for otherwise consideration and further for direction upon the

respondents not to disturb the petitioner for smooth running of the Hotel "Mangal Shree" as the same has been constructed after taking

huge loan of the Bank and is only source of income to repay the loan and maintain the livelihood and further for any other appropriate

relief or reliefs for which petitioner is entitled from the facts and circumstances of this case.

3. It is the common ground at the bar that the notice contained in Memo No. 1588 dated 18.10.2019 issued by the Nagar Parishad has since been

recalled by the authorities themselves.

4. In view thereof, the writ petition stands disposed off having become infructuous.

5. However, the parties shall have liberty to move before the appropriate forum, in accordance with law, with regard to any fresh cause of action in

the matter.