

**WWW.LIVELAW.IN**  
**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6751 of 2021**

Based on the order dated 01.03.2021 passed in Cr. W.J.C. No. 887 of 2013 by Honble Full Bench

... .. Petitioner

Versus

1. The State of Bihar.
2. The Commissioner Patna Municipal Corporation, Patna.
3. The Secretary Building Construction Department, Govt. of Bihar, Patna.
4. The District Magistrate Patna.

... .. Respondents

**Appearance :**

|                     |   |                                                                    |
|---------------------|---|--------------------------------------------------------------------|
| For the Petitioner  | : | Mr.                                                                |
| For the Respondents | : | Mr. Lalit Kishore, Advocate General<br>Mr. Pawan Kumar, AC to A.G. |

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**and**  
**HONOURABLE MR. JUSTICE VIKASH JAIN**  
**and**  
**HONOURABLE MR. JUSTICE AHSANUDDIN**  
**AMANULLAH**  
**and**  
**HONOURABLE MR. JUSTICE RAJENDRA KUMAR**  
**MISHRA**  
**and**  
**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN**  
**SINGH**

ORAL ORDER

2      15-03-2021                      This case has been registered as a Public Interest Litigation (P.I.L.) under the orders of Hon'ble the Chief Justice pursuant to our order dated 01.03.2021 passed in Cr. W.J.C. No. 887 of 2013 and analogous cases.

Firstly, we are of the opinion that the cause title of the



**WWW.LIVELAW.IN**

case needs amendment. It should be substituted as :

“Re: Suo Motu cognizance taken by  
the Court vide order dated 01.03.2021 of a  
structure on the north side adjacent to the  
Centenary Building of the Patna High Court,  
which came up during COVID-19 Pandemic

Versus

The State of Bihar through the Chief  
Secretary, Government of Bihar, Patna and  
Others.”

We direct accordingly. Registry is also directed to  
implead the following respondents in the matter apart from the  
State of Bihar through the Chief Secretary, Government of  
Bihar, Patna, as respondent number 2 to 13 respectively : -

“The High Court of Judicature at Patna  
through its Registrar General, Patna, Bihar.

The Chief Secretary, Government of  
Bihar, Patna, Bihar.

The Secretary, Minority Welfare  
Department, Government of Bihar, Patna, Bihar.

The Secretary, Building Construction  
Department, Government of Bihar, Patna, Bihar.

The Director General of Police,  
Government of Bihar, Patna, Bihar.

Patna Municipal Corporation through its  
Municipal Commissioner, Patna, Bihar.

Municipal Commissioner, Patna



WWW.LIVELAW.IN

Municipal Corporation, Patna, Bihar.

The Bihar Building Construction Corporation through its Managing Director, Patna, Bihar.

The Managing Director, Bihar Building Construction Corporation, Patna, Bihar.

The District Magistrate, Patna, Bihar.

The Senior Superintendent of Police, Patna, Bihar.

The Bihar State Sunni Waqf Board through its Chief Executive Officer, Patna, Bihar.”

Considering the significance of the present case, we have requested Mr. Rajendra Narayan, learned Senior Counsel, to assist us as *amicus curiae* in the matter. He has readily accepted our request.

We have heard Mr. Lalit Kishore, learned Advocate General for the State of Bihar.

He has informed us that in course of hearing of the matter today itself, his Clerk has filed a counter affidavit before the Registry on behalf of the State of Bihar answering the points mentioned in our order dated 01.03.2021. He has stated that the subject structure, adjacent to the north side of the High Court Centenary Building, is being constructed by the Minority Welfare Department, Government of Bihar, through Bihar State



**WWW.LIVELAW.IN**

Building Construction Corporation on a property belonging to the Bihar State Sunni Waqf Board, for use as *Musafirkhana*, office of the Bihar Sunni Waqf Board and for some other uses. On a query made by us, he contended that no permission for the construction has been obtained from the Patna Municipal Corporation as no such permission is required in view of Bye-Law no. 8(1)(A) of the Bihar Building Byelaws, 2014 (hereinafter to be referred to as 'the Byelaws'). He submitted that the building is being constructed on the basis of a plan prepared and approved by the Government Architect.

He has stated that the structure in question is about 40-45 feet high and stands approximately 30 feet away from the boundary wall of the High Court Building.

In our opinion, construction of the multi-storied structure is in clear breach of Bye-Law no. 21 of the Byelaws, which reads as under : -

*“21. Construction near important buildings.-  
No building exceeding 10 meters height shall be permitted within 200 meters radius from the boundary of the Governor’s House, Bihar State Secretariat, Bihar Legislative Assembly, High Court and such other buildings as may be decided by the Authority or the State Government from time to time.”*



[WWW.LIVELAW.IN](http://WWW.LIVELAW.IN)

In our order dated 01.03.2021, we have already expressed our opinion that such structure in such close proximity of the High Court Building, apart from causing incessant disturbance in court proceedings, *prima facie*, poses serious security concerns for the Judges, lawyers, litigants, staff and security personnel alike. In such view of the matter, taking note of Bye-Law no. 21 of the Byelaws, we are of the view that such structure should not be permitted in close proximity of the High Court Building. Accordingly, we hereby direct that till further orders, no construction or related activity whatsoever shall be undertaken or continued by any person or authority in relation to the subject structure or any other structure exceeding 10 meters in height within a radius of 200 meters from the boundary wall of the High Court without prior leave of this Court.

All the respondents shall be individually responsible to ensure compliance of this order.

Let a copy of this order along with the earlier order dated 01.03.2021 be communicated to the newly added respondents electronically forthwith.

List this case again under the same heading on 12<sup>th</sup> April, 2021, by the day prior to which the respective



**WWW.LIVELAW.IN**

respondents shall be required to file their respective comprehensive affidavits on the issues involved in the present case after exchanging copies in advance.

**(Ashwani Kumar Singh, J)**

**(Vikash Jain, J)**

**(Ahsanuddin Amanullah, J)**

**(Rajendra Kumar Mishra, J)**

**(Chakradhari Sharan Singh, J)**

Pawan/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

