

बिहार सरकार
भवन निर्माण विभाग

पत्रांक-डी0डी0-1-विधि-43/2023-24.....

4705 (अ) 31/3

पटना, दिनांक-.....08/6/23

प्रेषक,

राकेश कुमार,
अभियंता प्रमुख-सह-अपर आयुक्त-सह-विशेष सचिव,
भवन निर्माण विभाग, बिहार, पटना।

सेवा में,

कार्यपालक अभियंता,
भवन प्रमंडल, अररिया/मोतिहारी/भभुआ/मधुबनी/
बिहारशरीफ/पूर्णियाँ/समस्तीपुर/बेतिया/मुंगेर/
पटना सिटी, गुलजारबाग/सीतामढ़ी/हाजीपुर/अरवल/
सुपौल/सासाराम/मधेपुरा/किशनगंज/सीवान/गोपालगंज/
पटना पश्चिम/दरभंगा/कटिहार/भागलपुर/शिवहर
भवन निर्माण विभाग, बिहार।

विषय:- विभिन्न व्यवहार न्यायालयों एवं अनुमंडलीय व्यवहार न्यायालयों में लॉयर्स
हॉल के निर्माण के संबंध में।

प्रसंग:- विशेष सचिव, विधि विभाग, बिहार, पटना का पत्रांक-3464/जे0, पटना,
दिनांक-08.05.2023

महाशय,

उपर्युक्त विषयक प्रासंगिक पत्र द्वारा राज्य के विभिन्न व्यवहार न्यायालयों
एवं अनुमंडलीय व्यवहार न्यायालयों में स्वीकृत लॉयर्स हॉल के निर्माण की प्रक्रिया को
अपेक्षाकृत धीमा बताते हुए शीघ्र कार्य प्रारंभ करने का अनुरोध किया गया है।

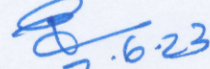
विदित हो की CWJC No.-20575/2021 रामाकान्त शर्मा बनाम बिहार राज्य
एवं अन्य में माननीय उच्च न्यायालय द्वारा सतत सुनवाई की जा रही है। दिनांक-01.02.
2023 को उक्त मामले की सुनवाई के क्रम में माननीय उच्च न्यायालय द्वारा निम्न आदेश
पारित किया गया है-

**The Court has suggested to the Secretary, Building Construction
Department that the foundation for at least two/three additional stories may
be made for future use.**

अतः इस परिप्रेक्ष्य में निदेश दिया जाता है कि माननीय उच्च न्यायालय
द्वारा पारित आदेश के आलोक में लॉयर्स हॉल के निर्माण कार्य की प्रगति में तेजी लाने हेतु
शीघ्र आवश्यक कार्रवाई की जाय।

अनु0:-यथोक्त।

विश्वासभाजन

 7.6.23

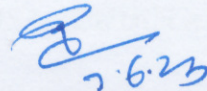
(राकेश कुमार),

अभियंता प्रमुख-सह-अपर आयुक्त-सह-विशेष सचिव,
भवन निर्माण विभाग, बिहार, पटना।

पटना, दिनांक-.....08/6/23

ज्ञापक-..... 4705 (अ)

प्रतिलिपि:-मुख्य अभियंता (उत्तर/पटना/दक्षिण/निरूपण)/सभी संबंधित अधीक्षण
अभियंता, भवन अंचल, भवन निर्माण विभाग, बिहार को सूचनार्थ एवं आवश्यक कार्रवाई हेतु
प्रेषित।

 7.6.23

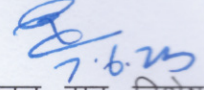
अभियंता प्रमुख-सह-अपर आयुक्त-सह-विशेष सचिव,
भवन निर्माण विभाग, बिहार, पटना।

ज्ञापांक—.....4705 (अ) 2015

पटना, दिनांक:.....08/6/23

प्रतिलिपि:—आई०टी० मैनेजर, भवन निर्माण विभाग, बिहार, पटना को विभागीय वेबसाईट पर अपलोड करने हेतु प्रेषित।

अनु०:—यथोक्त।


7.6.23

अभियंता प्रमुख—सह—अपर आयुक्त—सह—विशेष सचिव,
भवन निर्माण विभाग, बिहार, पटना।

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19276 of 2019

Based on the order dated 21.08.2019 passed in Cr. Misc. 28530 of 2019.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Ministry of Finance, Patna, Bihar.
3. The Director General of Police, Patna.
4. The Registrar General of Patna High Court, Patna.

... .. Respondent/s

With

Civil Writ Jurisdiction Case No. 20575 of 2021

Ramakant Sharma, Senior Advocate in person, aged about 68 years, Male, son of late Parikshit Narayan Sharma, resident of House No. 1, Road No. 17, Sri Krishnanagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Secretary (Law), Govt. of Bihar, Patna.
4. The Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna.
5. The Union of India through the Secretary, Ministry of Law and Justice, Govt. of India, New Delhi.
6. The Deputy Secretary to the Govt. of India, Ministry of Law and Justice (Department of Justice), New Delhi.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 19276 of 2019)

For the Petitioner/s : Mr.

For the State : Mr. P. K. Shahi, Advocate General

(In Civil Writ Jurisdiction Case No. 20575 of 2021)

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate (In Person)

For the State : Mr. P. K. Shahi, Advocate General

For the Union of India : Dr. K. N. Singh, Additional Solicitor General with
Mr. Kumar Priya Ranjan, CGC

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
and

conferencing in which all the concerned District & Sessions Judges along with the District Magistrates/representatives of the District Magistrates are present. Mr. P. K. Shahi, learned Advocate General, Dr. K. N. Singh, learned Additional Solicitor General, Mr. Ramakant Sharma, Senior Advocate in person, Mr. Kumar Priya Ranjan, CGC, the learned Law Secretary, Government of Bihar, the Registrar General of this Court along with his team and Mr. Kumar Ravi, Secretary, Building Construction Department as also the Chief Architect of the Department have participated.

2. There has been detailed discussions and interaction with all the officers.

3. At the outset, the Court would set the tone for the issues which would be taken up in the present proceedings. In this connection, the Court is tempted to quote the following paragraphs of **All India Judges Association and others Vs. Union of India and others, (2018) 17 Supreme Court Cases 555:**

“3. A sound infrastructure is the linchpin of a strong and stable judicial system. The responsibility for securing justice to the citizenry of our country rests

obligation of the judiciary. It needs to be understood that without a robust infrastructure, the judiciary would not be able to function at its optimum level and, in turn, would fail to deliver the desired results. While emphasising the importance of judicial infrastructure, the Court in *All India Judges Assn. v. Union of India* has observed : (SCC p. 705, para 1)

“1. Justice delivery system is the bedrock of the rule of law, which is held to be the basic structure of the Constitution and it is our view that, in the absence of adequate judicial infrastructure, particularly for the subordinate courts, it would not be possible to sustain rule of law in this country. It is true that courts do not generally issue directions in financial matters, however, we are of the view that court fees, costs and fines constitute what is called “measure” of what is spent on judicial infrastructure. This would be in consonance of doctrine of proportionality, which is the facet of doctrine of reasonableness under the Constitution. The Rule of Law assures the citizen of an effective civil and criminal justice system and judicial infrastructure is the cornerstone of justice delivery system without which the Rule of Law in this Court would fail.”

(emphasis supplied)

4. In *Brij Mohan Lal v. Union of India* [*Brij Mohan Lal v. Union of India*, (2012) 6 SCC 502 : (2012) 2

“137. Article 21 of the Constitution of India takes in its sweep the right to expeditious and fair trial. Even Article 39-A of the Constitution recognises the right of citizens to equal justice and free legal aid. To put it simply, it is the constitutional duty of the Government to provide the citizens of the country with such judicial infrastructure and means of access to justice so that every person is able to receive an expeditious, inexpensive and fair trial. The plea of financial limitations or constraints can hardly be justified as a valid excuse to avoid performance of the constitutional duty of the Government, more particularly, when such rights are accepted as basic and fundamental to the human rights of citizens.”

5. The aforesaid two verdicts, as is noticeable, lay stress on infrastructure in the context of Rule of Law, effective civil and criminal justice system and the constitutional duty of the Government to provide the same and the principle of access to justice that does not accept the excuse of the Government as regards financial limitation.

6. It has to be firmly borne in mind and accepted as a reality that raising the infrastructure standards in the court complexes is the need of the hour as it is the basic requirement for the courts in the twenty-first century. We are absolutely clear that when people are aware of

conceptually, Rule of Law nourishes and garners the said idea. The idea of speedy and quality justice dispensation system cannot be treated with *status quoist* approach, for the definition of infrastructure and the understanding of the same in all associated contexts changes with the passage of time and introduction of modern technology in many a sphere of life. The consumers of justice expect prompt and effective delivery of justice in an atmosphere that is acceptable. Therefore, infrastructure enhancement will go a long way in strengthening functioning of the court and would improve the productivity in the justice delivery system.

7. Be it noted, a court complex is not just a building. It is the building of justice which breathes and infuses life into the exalted and sublime ideals of justice. The widening gap between the ideal and the real and between the vision and the pragmatic realisation of justice has to be bridged by proper access to justice for all.

8. It brings us to the focal point i.e. judicial infrastructure which has been given relatively low importance, if not long neglected. That needs an overhaul. Apart from the metropolitan cities and State capitals, infrastructure in courts, especially in the interior parts of the country, is dying out. It would not be wrong to say that

and rule of law is intrinsically linked. No democracy can afford to undermine the core values of rule of law. Thus, strengthening of court infrastructure requires immediate attention in the form of planning, enhanced budgeting and structured implementation or execution of the plans. Presently, most of the States are making budgetary provision as low as less than 1% of their total budget for the judiciary.

9. In view of the above, we deem it extremely necessary to declare that it is essential to provide basic infrastructural facilities, amenities, utilities and access oriented features in all court complexes around the country as it is axiomatic that infrastructure forms the core for efficient and efficacious dispensation of speedy and qualitative justice.”

4. However, for the present, the Court has limited its deliberation to the construction of the lawyers’ building under the Centrally Sponsored Scheme (CSS). Certain issues have been highlighted, basically with regard to adequacy of the land which under the CSS was required. Though the same has not been found to be easily/readily available due to extreme pressure on land and lack of space, but, it is now clear that the Central Government has given some discretion to the State

locally since there has to be a minimum built up area under the scheme, both with regard to the building for the lawyers, the Toilet Complex and Computer Room for the lawyers in the Court Complex. The Court has been informed by the learned Law Secretary and the Secretary, Building Construction Department that three models have been prepared with regard to the construction of the building depending on the availability of the land/space. The first is the standard plan as per the original scheme followed by two more designs which would satisfy the requirement, even though not confirming to the actual lay out size as proposed in the original scheme. Be that as it may, the Court would record that to make it practical, flexibility has been given to the State Government so that the purpose is served and the building is constructed for use by the lawyers. The Court has suggested to the Secretary, Building Construction Department that the foundation for at least two/three additional stories may be made for future use.

5. With regard to the proposals which are already pending with the State Government for acquisition of land for the Court Complexes, the District & Sessions Judges along with

allotting adequate space for lawyers' building from the land allotted/available with the Civil Courts so that it may save further loss of time and additional cost. This proposal seems to be a way out for the reason that in the CSS scheme there is no component for land acquisition and because of sheer lack of availability of government land, wherever proposals are pending and where lands appears to be adequate for the complexes of the Civil Courts and residential houses of the Presiding Officers, part of it may also be considered for allotment for the present purpose.

6. The District & Sessions Judges and the District Magistrates have assured the Court that within the next two days all pending proposals would be sent after identifying the land which may be used.

7. Further, in some districts, it has been pointed out that already proposals for ADR buildings and other infrastructural constructions are pending at the level of either the Law Department or the concerned department of the State Government where a formal inter-departmental transfer of land is required. The learned Advocate General is requested by the

8. The Court requests the Secretary, Department of Law and the Secretary, Building Construction Department to expedite the process of construction of the projects, either under the present CSS with regard to lawyers' complex or with regard to ADR building and other buildings of the Civil Courts Complexes/residential accommodation for the Presiding Officers where already the ground work has been done and only a formal tender has to be floated.

9. As the Court has been informed that three site plans of the building for the lawyers, Toilet Complex /Computer Room have been prepared by the Building Construction Department, the same be forwarded to the High Court to be placed before the appropriate Committee and thereafter before Hon'ble the Chief Justice for approval of the same.

10. The Court would further indicate that the High Court may also consider granting approval to the Building Construction Department that if required the actual dimension of the building may be varied depending on the availability so that minimum construction area is not compromised with.

11. The Secretary, Building Construction Department

construction.

12. The Court would only indicate that the buildings should be made such that it is practicably feasible for proper utilization and provisions for washrooms/toilets etc. equipped with full amenities should be made available on each floor. This would be in addition to the separate Toilet Complex to be built under the CSS.

13. The learned Registrar General shall also coordinate and facilitate in the exercises indicate hereinabove.

14. As has been agreed between the parties, the matter shall be taken up by the same mode on 7th February, 2023, at 5.00 PM.

(Ahsanuddin Amanullah, J)

(Harish Kumar, J)

J. Alam/-
P. Kumar

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