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**(2003) 12 PAT CK 0089**

**Patna High Court**

**Case No:** C.W.J.C. No. 383 of 2001

Indramani Devi

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision:** Dec. 3, 2003

**Citation:** (2004) 2 PLJR 467

**Hon'ble Judges:** Chandramauli Kr. Prasad, J

**Bench:** Single Bench

**Advocate:** Devendra Kumar Sinha, for the Appellant; H.S. Himkar, for PRDA and P. Sinha, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

@JUDGMENTTAG-ORDER

Chandramauli Kr. Prasad, J.

This application has been filed for quashing the order dated 15.12.2000 passed by the Vice-Chairman, whereby he had directed the Assistant Engineer to comply with the order of the Vice-Chairman dated 21.8.2000/16.9.2000.

2. Short facts giving rise to the present application are that the Vice-Chairman of the Patna Regional Development Authority, by order dated 21.8.200/16.9.2000, directed the Petitioner who was opposite party before him, as follows:

(a) The O.P. should ensure that the front set-back of the building in question is available as per the sanctioned plan.

(b) The O.P. should deposit the requisite condonation fee in respect of the deviation in the west side set-back and built up area.

(c) The O.P. should remove the stacked bricks from the aforementioned passage.

3. Aggrieved by the same, Petitioner preferred C.W.J.C. No. 11096 of 2000 Indramani Devi v. The State of Bihar and Ors. before this Court. This Court disposed of the writ

application by order dated 10.11.2000 in the following words:

The grievance of the Petitioner is against the order dated 21.8.2000/16.9.2000 (Annexure-1) passed by Respondent No. 2 directing the Petitioner to remove the bricks stacked on the passage. Learned Counsel for the Petitioner says that no brick has been stacked on the passage. It is an error of record. In my view such error can be shown to the authority concerned itself. Therefore, this application is disposed of permitting the Petitioner to file an application before the Respondent No. 2, who will look into the grievance of the Petitioner and shall pass order in accordance with law.

4. It is the grievance of the Petitioner that in the light of the opportunity given by the Court he had filed representation but the Vice-Chairman of the authority without giving any opportunity of fixing the date of enquiry, has passed the impugned order.

5. Mr. Sinha, Sr. Advocate submits that he impugned order passed by the Vice-Chairman directing the Assistant Engineer to carry out its earlier order dated 21.8.2000/16.9.2000 without considering the representation of the Petitioner and without holding any enquiry, is illegal. He points out that this Court while giving opportunity to the Petitioner to file representation, did not fix any time limit and as such the Vice-Chairman ought to have waited for such an application being filed.

6. Mr. H.S. Himkar appearing on behalf of Respondent Nos. 2 to 6 and Mr. P. Sinha appearing for the Respondent No. 7 submit that when the Petitioner had not chosen to file the representation in the light of the order of this Court the Vice-Chairman did not err in passing the impugned order.

7. Having appreciated the rival submission I do not find any substance in the submission of Mr. Sinha. This Court while disposing of the writ application filed by the Petitioner earlier, by order dated 10.11.2000 gave the Petitioner opportunity to file representation before the Vice-Chairman who in turn was directed to look into her grievance and pass orders in accordance with law. The certified copy of the order of this Court was made available to the Petitioner on 22.11.2000. Petitioner did not file any representation and only after the Vice Chairman passed the order, he had chosen to file the representation thereafter on the same day. Thus in my opinion, the Vice-Chairman has not committed any error by saying that no representation as directed by this Court was filed before him. In such a situation the Vice-Chairman had no option than to pass the order, as he could not have waited till perpetuity so that the Petitioner files representation.

8. I do not find any merit in the application and it is dismissed accordingly.