

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13480 of 2021**

Subodh Kumar, Son of Late Suresh Prasad Singh, Resident of Village-Shankar  
Dih, P.O. Sakardih, P.S. Parwalpur, District-Nalanda at Biharsharif.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department,  
Government of Bihar, Patna.
3. The Joint Secretary, Urban Development and Housing Department,  
Government of Bihar, Patna.
4. The Divisional Commissioner, Patna Division, Patna.
5. The District Magistrate, Nalanda at Biharsharif, District-Nalanda at  
Biharsharif.
6. The Circle Officer, Parwalpur, District-Nalanda at Biharsharif.
7. The Block Development Officer, Parwalpur, District-Nalanda at Biharsharif.

... .. Respondent/s

**Appearance :**

For the Petitioner/s	:	Mr.Shashi Bhushan Kumar Manglam, Advocate
For the Respondent/s	:	Mr.Kinkar Kumar, S.C.-9
		Ms. Deepika Sharma, A.C. to S.C.-9

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**  
**and**

**HONOURABLE MR. JUSTICE MADHURESH PRASAD**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)**

**Date : 28-02-2022**

The petitioner has put to challenge a notification dated  
03.03.2021, issued by the Urban Development and Housing  
Department, Government of Bihar, whereby Parwalpur Nagar  
Panchayat has been constituted.

2. Mr. S.B.K. Mangalam, learned counsel for the petitioner  
agrees that the petitioner has not filed any objection under Section 5 of



the Bihar Municipal Act, 2007 (hereinafter referred to as “the Act”) subsequent to issuance of declaration of intention by a notification under Section 4 of the Act.

3. The impugned notification has been issued under Section 6 of the Act.

4. A Division Bench of this Court in its decision rendered on 17.01.2022 in ***C.W.J.C. No.7446 of 2021 (Usha Devi Vs. The State of Bihar and another analogous matter)*** has dealt with the issue of a challenge to a notification under Section 6 of the Act by such persons who fail to raise any objection under Section 5 of the Act. Paragraphs 16 to 18 of the said decision, which are relevant, read as under:

“16. Before going into the controversy based on objections raised in the writ petition, it would be worthwhile to consider whether petitioner Nos. 1, 2 and 4 can be permitted to assail the draft notification or the final notification. Since these petitioners have chosen not to make any objection when they were afforded opportunity, there is no basis for them to maintain the instant writ proceedings. Having chosen not to avail the statutory opportunity, it does not lie in their mouth to contend that there is any infirmity in the statutory process, much less non consideration of their objections. They cannot be permitted to invoke writ jurisdiction of this Court under Article 226 of the Constitution of India.



17. In this connection, this Court would consider it appropriate to refer to decision of Hon'ble Apex Court in the case of ***Board of Directors, Himachal Pradesh Transport Corporation & Another -Versus- K C Rahi***, reported in (2008) 11 ***Supreme Court Cases 502***. Even in the context of a departmental proceeding wherein there is requirement of observing the principles of natural justice, the Apex Court, in the judgment, has held that when pursuant to notice sent to the delinquent by publication in the newspaper, he did not respond or participate, in such event "plea of principles of natural justice is deemed to have been waived and he is estopped from raising the question of non-compliance with principles of natural justice..."

18 In the instant case, this Court would observe that none of the provisions of the Act of 2007, quoted hereinabove, require the passing of an order on the objections received in response to the notification of intention to constitute a municipal area, Section 5 of the Act of 2007 merely postulates taking into consideration of the objections."

5. In view of the law as discussed in the case of ***Usha Devi*** (supra), paragraphs 16 to 18 of which are relevant and have been quoted herein above in the context of the petitioner's case, in our opinion, this writ application has no merit and deserves to be dismissed.



6. The application stands dismissed accordingly.

**(Chakradhari Sharan Singh, J)**

**(Madhuresh Prasad, J)**

PNM

AFR/NAFR	NAFR
CAV DATE	N.A.
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