

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1694 of 2014

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1. Bijendra Raut, S/O Chhotelal Raut Resident of Mohalla- Jagjivan Nagar, Ward No. 27, P.S- Bettiah, Town, District- West Champaran.
 2. Anwat Sharma, S/O Late Mahadeo Sharma, Resident Of Village- Khada, P.S- Nautan, District- West Champaran.
 3. Raja Lal Sharma, S/O Late Mamadeo Sharma Resident Of Village- Khada, P.S- Nautan, District- West Champaran.
 4. Mohan Prasad, S/O Late Madan Prasad, Resident Of Village- Sansaraiya, P.S- Bettiah Muffasil, Distt- West Champaran.
 5. Kishundeo Sharma, S/O Late Ramlal Sharma, Resident Of Village- Khada, Tola Chiriharwa, P.S- Nautan, Distt- West Champaran.
 6. Binod Patel, S/O Late Chhotelal Patel, Resident of Village Bairiya Chiriharwa Tola, P.S- Bairiya, District- West Champaran.
 7. Motilal Patel, S/O Late Saryug Raut, Resident Of Mohalla- Banswariya, Ward No. 29, P.S- Bettiah Town, District- West Champaran.

.... Petitioners

Versus

1. Bettiah Nagar Parishad through Executive Officer.
2. The Executive Officer, Bettiah Nagar Parishad, Bettiah, West Champaran.
3. The Chairman, Bettiah Nagar Parishad, Bettiah, West Champaran.
4. The Vice Chairman, Bettiah Nagar Parishad, Bettiah, West Champaran.
5. The Ward Commissioner, Ward No. 21, Bettiah Nagar Parishad, Bettiah, West Champaran.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. ADITYA NATH JHA, ADV.

For the Respondent/s : Mr. DHANNJAY KUMAR NO 2, ADV.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 09-02-2015

Heard the parties.

The petitioners have filed this writ petition seeking a direction to the authorities of Nagar Parishad, Bettiah, district West Champaran to settle shops within the Alok Bharti Shopping Complex within the Bettiah town in favour of the petitioners. Pursuant to the



order of this Court that a counter affidavit has been filed by the Executive Officer of the Nagar Parishad enclosing the minutes of the Board's meeting and in which at Agenda No. 3, a decision has been taken to settle the shops by inviting tenders and holding public auction. It is in the backdrop of such decision taken by the Board of the Parishad that it is stated by the Executive officer that they have received earnest amount on behalf of 153 applicants seeking settlement of the shops and if their number exceeds the number of shops constructed then the same would be settled by way of lottery system.

Mr. Aditya Nath Jha, learned counsel appearing on behalf of the petitioner has, with reference to the minutes of the Board meeting present at Annexure-B to the counter affidavit, submitted that the Board has decided to settle the shops by way of public auction and while doing so, have inadvertently mentioned that settlement would be by lottery. He submits that in any view of the matter, once the decision has been taken by the Nagar Parishad to settle the shops, then transparency and fair play would require that the settlement is done by way of public auction.

Though Mr. Dhananjay Kumar appearing for the Nagar Parishad has tried to justify the action taken by the Nagar Parishad but in my opinion, any settlement of the shops by the Nagar Parishad should be transparent and with equal opportunity to all

concerned. The counter affidavit does not enclose the copy of the notice through which the applications were invited and though there are 153 applicants for the shops, but in my opinion, the Nagar Parishad should publish a public notice inviting applications from intending applicants for settlement of the shops providing opportunity to all to participate therein. The petitioners would be at liberty to respond to the notice so published for settlement of the shops by way of public auction and participate in the auction.

The writ petition is thus disposed of with a direction to the Executive Officer, Nagar Parishad to abide by the decision of the Board and settle the shops in question by way of public auction after publication of public notice inviting applications from general public.

Considering the nature of dispute any such exercise should be completed expeditiously and preferably within six months from the date of receipt/production of a copy of this order.

(Jyoti Saran, J.)

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