

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.821 of 2009**

Sushil Kumar Jha son of Late Shrikant Lal Jha, UDC (Accounts) Bihar  
State Housing Board, Bhagalpur.

.... .... Petitioner/s

Versus

1. Bihar State Housing Board through its Managing Director.
2. Managing Director, Bihar State Housing Board, Patna
3. Secretary, Bihar State Housing Board, Patna
4. Revenue Officer, Bihar State Housing Board, Patna.

.... .... Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Srinandan Pd. Singh, Adv.  
Mr. Ashok Kumar I, Adv.  
Mr. Manish Kumar, Adv.

For Housing Board : M/s Anshuman Singh and Sriram Krishna, Adv.

**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 21-01-2015**

Heard learned counsel for the petitioner and learned counsel  
for the Bihar State Housing Board.

A departmental proceeding was initiated against the  
petitioner on account of illegally giving flat on rent which was allotted to  
him by Bihar State Housing Board (herein after mentioned as “Board”)  
after construction of his house on the plot which was allotted by the Board  
and he was put under suspension.

The petitioner had filed his show cause in which it was  
submitted that after shifting to his newly constructed house, he was  
suffering from Cardiac disease and had shifted to A.I.I.M.S., New Delhi  
where he remained for a long time. There was none in his family to put  
resistance for illegal occupation. When he returned back, he found that one

lady illegally occupied his aforesaid flat.

The petitioner had moved before this Court on different occasions. First, against the order of suspension that was disposed of by this Court in CWJC No. 1089 of 2003 vide order dated 28<sup>th</sup> January 2003 where this Court has given direction to the authority concerned to take a final decision in the matter.

After decision, the petitioner filed the appeal which remained pending there, ultimately the petitioner was forced to approach this Court in CWJC No. 5570 of 2005 where this Court, vide order dated 19<sup>th</sup> May 2008, has given direction to pass an order in terms of a judgment in Punjab National Bank Vs. Kunj Bihari Mishra, reported in (1996) 7 SCC 84 whereupon the Board took a decision vide Memo No. 5335 dated 17<sup>th</sup> September 2008 where the Board, which is Disciplinary Authority, considered the case of the petitioner but disagreed with the explanation submitted by him and ultimately awarded the punishment of stoppage of one increment with cumulative effect.

The counsel for the petitioner submits that every time this Court remanded back the matter to the authority concerned to pass a reasoned order but the impugned order has been passed by which the punishment has been inflicted upon the petitioner, does not disclose the reason in what manner the plea of his treatment at A.I.I.M.S., New Delhi was considered properly.

In contra, the counsel for the Board has submitted, the Board has applied its mind and has taken into consideration every aspect of the

matter and after due consideration the order of punishment has been passed.

Having considered the rival contentions of the parties, from the order it appears that the allegation has been made that the Appellate Authority after remand from this Court considered the allegation part and also considered the explanation submitted by the petitioner, rejected the claim of petitioner. There is no dispute of the fact that the petitioner was given the flat on rental basis as well as he was also allotted a plot of the land, there he had already constructed and shifted to the newly constructed house.

Before shifting to the house, it was a duty of the petitioner to hand over the vacant possession of the flat but instead of doing so he kept under possession in lock and key and explanation assigned the stranger had entered into the flat has not been accepted by the Corporation. There is no material to show that even after return from the treatment, he had lodged any FIR before the Police.

This Court finds that there is no error in the order impugned. Accordingly, this petition is dismissed.

**(Shivaji Pandey, J)**

Mahesh/-

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