

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2158 of 2013

With

Interlocutory Application No. 6852 of 2013

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Randhir Patwa S/O Late Deo Narain Prasad Patwa, Resident of Hajipur,
Dhobi Tola, Ward No. 20, Khagaria, P.S.- Khagaria, District & Town-
Khagaria

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, District- Khagaria
3. The Chairman, Nagar Parishad, Khagaria
4. The Town Executive Officer, Nagar Parishad, Khagaria

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Kumar Jha
For the Respondent No.1 & 2 : Mr. Nutan Sahay, AC to GA-5
For the Respondent No. 3 & 4: Mr. Rakesh Chandra
For the Intervenor : Mr. Abdul Manan Khan
Md. Najmul Hoda

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 23-06-2015 Heard the parties.

The petitioner is aggrieved by the order dated 30.07.2012 (Annexure-7) passed by the respondent Executive Officer, Nagar Parishad, Khagaria, in Case No.34 of 2012, whereby settlement/allotment of stall No.C.7 made in favour of the petitioner has been cancelled.

Learned counsel appearing on behalf of the petitioner submits that stall in question was originally settled in favour of one Laxmi Prasad Patwa, the uncle of the petitioner, by the competent authority and subsequently it was settled in favour of the petitioner. He further submits that the petitioner has been paying rent to the Nagar Parishad, Khagaria, regularly. It is also contended that the petitioner has not violated any terms and conditions of the settlement. According to the learned counsel,

before passing the impugned order proper enquiry was not conducted and on the basis of a confidential enquiry report, impugned order of cancellation has been passed. Therefore, it is pleaded that there has been violation of the principles of natural justice.

The matter has been contested by the respondents by filing a counter-affidavit on behalf of the respondent no.4. Learned counsel appearing on behalf of the respondent no. 3 and 4 submits that the petitioner had sublet the stall in question to one Manjoor Alam, which was found to be true on the basis of the confidential enquiry report. Therefore, the impugned order was passed by the respondent Executive Officer cancelling the settlement of the stall in question made in favour of the petitioner.

However, despite repeated query learned counsel appearing on behalf of the respondent no. 3 and 4 has not been able to show that which terms and conditions of the order of settlement of the stall in question has been violated by the petitioner. In fact, neither in the writ petition nor in the counter-affidavit filed on behalf of the respondent no.4, the order of settlement as also the terms and conditions of the settlement have been brought on record.

After having heard the parties, this Court is of the opinion that the matter requires reconsideration and fresh decision by the Executive Officer, Nagar Parishad, Khagaria. From the plain reading of the impugned order dated 30.07.2012 (Annexure-7), it appears that reasonable opportunity of hearing has not been given to the petitioner and the copy of the enquiry report was not served to him, before passing the impugned order. Furthermore, this Court finds that the respondent Executive Officer has not

pointed out that which terms and conditions of the order of settlement have been violated by the petitioner, by which the stall in question had been settled in his favour. It also appears that the respondent Executive Officer has not applied his independent judicial mind to the entire facts of the case before passing the impugned order.

For the reasons recorded above, the impugned order dated 30.07.2012 (Annexure-7) passed by the respondent Executive Officer, Nagar Parishad, Khagaria is hereby set aside and the matter is remitted back to him for passing a fresh order strictly in accordance with law after giving an opportunity of hearing to all concerned including the petitioner.

In the result, the writ petition is allowed to the extent indicated above.

Interlocutory Application No.6852 of 2013 stands disposed of accordingly.

(Birendra Prasad Verma, J)

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