

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13154 of 2013

With
Interlocutory Application No. 156 of 2015

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Bhola Prasad Malhorta S/O Late Chandra Narayan Mahrotra, resident of
Mohalla Mishratola, Naka No. 5, P.S- Town, District- Darbhanga,
..... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of
Urban Development, Patna.
 2. The Collector, Darbhanga.
 3. The Darbhanga Municipal Corporation through its
Commissioner, Darbhanga.
 4. The Mayor, Darbhanga Municipal Corporation, Darbhanga.
 5. The Town Commissioner, Darbhanga Municipal Corporation, Darbhanga.
 6. The Marketing-in-charge Refugee Market, Lalbagh, Darbhanga.
- Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr.Chitranjan Sinha, Sr. Advocate
Mr. Amarendra Narayan, Advocate
For the Respondent Nos.1 & 2 : Mr.Manish Kumar 3, AC to SC 6
For the Respondent Nos. 3 to 6 : Mr. Bindhyachal Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 26-02-2015

Heard the parties.

2. The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order/communication dated 18.06.2013 (Annexure-5) issued under the signature of the respondent Municipal Commissioner, Darbhanga Municipal Corporation, Darbhanga (respondent no.5) cancelling the allotment of the petitioner with respect to Shop Nos. 11,12 and 13 of the Refugee Market, Darbhanga.

3. In the writ petition filed on behalf of the petitioner as also in the counter affidavit filed on behalf of the respondents, copy of the settlement order with respect to the shops in question or the license issued to the petitioner with respect to the shops in



question has not been brought on the record. Therefore, the issues raised on behalf of the parties cannot be effectively gone into and decided in the present proceeding. However, learned senior counsel appearing on behalf of the petitioner submits that the settlement of the shops in question in favour of the petitioner is not under dispute. According to him, for redressal of valid grievances and for recall/modification of the impugned order dated 18.06.2013, the petitioner has filed a representation before the respondent Municipal Commissioner, Darbhanga, but till date the matter has not been finally disposed of.

4. Learned counsel appearing on behalf of the respondent Nos. 3 to 6 has not been able to controvert the aforesaid submissions made on behalf of the petitioner. As indicated above, the respondent nos. 3 to 6 have not brought on record the documents of settlement with respect to shops in question to demonstrate that the petitioner has violated the terms and conditions of such agreement and therefore, settlement of the shops in question in his favour has been cancelled.

5. In the aforesaid factual matrix, this Court is of the opinion that the entire matter is required to be considered afresh by the respondent Municipal Commissioner after giving reasonable opportunity of hearing to the petitioner and all other concerned persons.

6. For the reasons recorded above, the petitioner is directed to appear before the respondent Municipal Commissioner, Darbhanga within a period of one month from today with a comprehensive representation and all supporting documents raising all pleas, which have been raised in the present writ petition.

7. If the petitioner appears before the respondent no.5, in the manner indicated above, within the aforesaid period of time with a certified copy of the present order, then the respondent no.5 shall be obliged to consider his claims afresh and shall pass a reasoned and speaking order in accordance with law after giving opportunity of hearing to the all concerned including the writ petitioner within a maximum period of two months from the date of appearance of the petitioner, in the manner indicated above.

8. If on consideration of the materials, the respondent no.5 comes to the conclusion the claims raised on behalf of the petitioner are admissible to him, then consequential order modifying the impugned order (Annexure-5) shall also be passed without any unnecessary further delay.

9. This is clarified that this Court has not gone into the merits of the claims raised on behalf of the parties in the present proceeding and this is left to be decided by the respondent no.5 strictly in accordance with law.

10. The writ petition stands finally disposed of with the observations and observations made above. I.A.No. 156 of 2015 is, accordingly, disposed of. The interim order passed on 25.07.2013 by a Bench of this Court stands vacated.

(Birendra Prasad Verma, J)

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