

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23233 of 2011

=====

Mahendra Kumar Choudhary, S/o late Thakur Prasad Choudhary, R/o Village/Mohalla- Majhauria, P.O.- Majhauria, P.S.- Ashok Paper Mill, District- Darbhanga at present Mohalla- Bihar Tea Syndicate, P.O.- Laheriasarai, P.S.- Laheriasarai, Tower Chowk (Station Road), Laheiasarai, Shop No.4, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.
2. District Magistrate –cum- Collector, Darbhanga, District- Darbhanga.
3. Dy. Development Commissioner –cum- Executive Officer, District- Darbhanga.
4. Chairman, Zila Parishad, Darbhanga, District- Darbhanga.
5. Shri Shafi Ahamad, the then Chairman, Zila Parishad, District- Darbhanga.

.... Respondent/s

with

Civil Writ Jurisdiction Case No.23296 of 2011

=====

Ganour Singh, S/o Late Maruan Singh, R/o Mohalla- Chitragupta Nagar, Barheta Road, P.O. Laheriasarai, P.S.- Bahadurpur, District- Darbhanga, At present Gonour Photostate, Station Road, Zila Parishad (in front), P.O. and P.S. Laheriasarai, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.
2. District Magistrate -cum- Collector, Darbhanga, District- Darbhanga.
3. Dy. Development Commissioner -cum- Executive Officer, District- Darbhanga.
4. Chairman, Zila Parishad, Darbhanga, District – Darbhanga.
5. Shri Shafi Ahamad, the then Chairman, Zila Parishad, District- Darbhanga.

.... Respondent/s

=====

Appearance :

(In CWJC No.23233 of 2011)

For the Petitioner/s : Mr. Ugranath Mallik

For the Respondent/s : Mr. Dhurandhar Pd. Choudhary, SC2

(In CWJC No.23296 of 2011)

For the Petitioner/s : Mr. Ugranath Mallik

For the Respondent/s : Mr. Jaishankar Barnwal, SC-1

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

two writ petitions are common hence with the consent of the parties they have been heard together and are being disposed of by this common order.

Heard Mr. Ugranath Mallik, learned counsel appearing for the petitioners in the two writ petitions and learned counsel for the State.

For the sake of convenience I shall be referring to the pleadings and Annexures as occurring in CWJC No.23233 of 2011 unless clarified with reference to the other writ petition.

The two petitioners herein have prayed for a direction in the nature of mandamus to the respondent authorities including the authorities of the Zila Parishad, Darbhanga to either allot a shop within the premises of the Zila Parishad in their favour or to refund the amount deposited by them of Rs.60,000/- each against such allotment along with interest at the rate of 12%.

According to the two petitioners, an advertisement was published in the year 2001, inviting applications for allotment of shops and responding to the advertisement the two petitioners deposited an advance of Rs.60,000/- each which according to them is manifest from the reverse of the receipt present at Annexure-2 to the respective writ petitions.



It is the case of the petitioners that there was a third applicant, namely, Pappu Kumar Roy who also had made a similar deposit. According to the petitioners, the Zila Parishad, Darbhanga in its general body meeting held on 11.6.2005 discussed this matter of allotment but neither any shop was allotted in favour of the petitioners nor the money was refunded to them. The discussion so made is present at Annexure-8.

Mr. Mallick, learned counsel appearing for the petitioners with reference to a letter of the Chairman, Zila Parishad, Darbhanga addressed to the Chief Executive Officer, Zila Parishad, Darbhanga present at Annexure-7 submits that although a request made by the then Chairman of the Zila Parishad to the Chief Executive Officer for allotment of shops to the two petitioners along with third applicant, namely, Pappu Kumar Roy but the same was not acted upon. He submits that the third applicant Pappu Kumar Roy being aggrieved approached in CWJC No.3434 of 2006 and to the knowledge of the writ petitioners the amount so deposited by said Pappu Kumar Roy has since been refunded. He submits that the petitioners are also entitled to similar relief by the Zila Parishad as extended to said Pappu Kumar Roy.

Separate counter affidavits have been filed on behalf

of the Zila Parishad contesting that there is no evidence of deposit of the money in the account of Zila Parishad nor there is any receipt in relation thereto. The deposit is thus being denied.

Mr. Mallick, learned counsel appearing for the petitioners has referred to a proceeding of the Zila Parishad, Darbhanga present at Annexure-3 dated 10.6.2002 to submit that the Chairman, Zila Parishad, Darbhanga himself has admitted that since the money so deposited by the petitioners was not deposited in the account of the Zila Parishad rather remained at his residence, hence he deposited the same in his own account.

I have heard learned counsel for the parties and I have perused the records.

While the documents on record do reflect certain deposits made by the petitioner as is manifest from the letter of the Chairman, Zila Parishad addressed to the Chief Executive Officer present at Annexure-7 and the Chairman, Zila Parishad has also admitted to the deposit of the money in his account vide Annexure-3 as well there is entry on the reverse of the receipt present at Annexure-2 but the claims are being contested in absence of supportive document and that the money was not deposited in the account of the Zila Parishad.



Be that as it may, taking into consideration that a third applicant in the transaction, namely, Pappu Kumar Roy has been provided with the relief of refund according to the petitioners, I deem it fit and proper to dispose of the writ petitions with a direction to the Chief Executive Officer, Zila Parishad, Darbhanga to examine the grievance of the petitioners in the backdrop of the relief, if any, provided to the third applicant Pappu Kumar Roy whose name finds reference in the letter of the Chairman, Zila Parishad addressed to the Chief Executive Officer present at Annexure-7 and dispose of the same in accordance with law and after opportunity of hearing to the petitioners expeditiously and preferably within a period of three months from the date of receipt/production of a copy of this order. The petitioners would be at liberty to advance their claim with supportive documents.

The writ petitions are disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

U			
---	--	--	--