

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5755 of 2016

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Divya Kumari minor daughter of Sri Birendra Pandey through her father and natural guardian Birendra Pandey son of late Bidya Pandey, resident of mohalla Amibka Nagar, P.S. Motihari Town, District East Champaran

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Urban Development, Government of Bihar, Patna
2. Zila Parishad, East Champaran through its Chief Executive Officer, Motihari, District East Champaran
3. The Chief Executive Officer cum Deputy Development Commissioner, Zila Parishad, East Champaran at Motihari, District East Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shakti Suman Kumar, Adv.

For the Respondent/s : Mr. D.K. Prasad, G.P.7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

2 30-03-2016 None appears on behalf of the petitioner or the State.

Counsel for the Zila Parishad is present.

By order dated 30.1.2016 the allotment in favour of the petitioner in respect of Shop No.54 situated at Gandhi Complex under Zila Parishad, Motihari in the district of East Champaran has been cancelled. The reasons assigned in Annexure-4 is default in payment of rent. A representation of the petitioner is present at Annexure-6 in which she undertakes to correct the default. There is no other charge. The issue raised in the present writ petition is denial of opportunity to the petitioner to correct her mistake. According to the petitioner no opportunity was granted to her before the impugned order was passed by the Deputy

Development Officer-cum-Executive Officer, Zila Parishad East Champaran. The order impugned dated 29.1.2016 present at Annexure-4 also simply rests upon default in payment of the rent. There is no mention whether any opportunity of hearing was granted to the petitioner before an order visiting civil consequences was passed.

In the circumstances discussed above, the order bearing Memo No. 40 of 30.1.2016 impugned at Annexure-4 cannot be upheld and is accordingly set aside. The writ petition is allowed.

This order however will not preclude the respondent Zila Parishad to proceed afresh but in accordance with law.

The petitioner would be under duty to clear the arrears of rent without delay.

(Jyoti Saran, J)

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