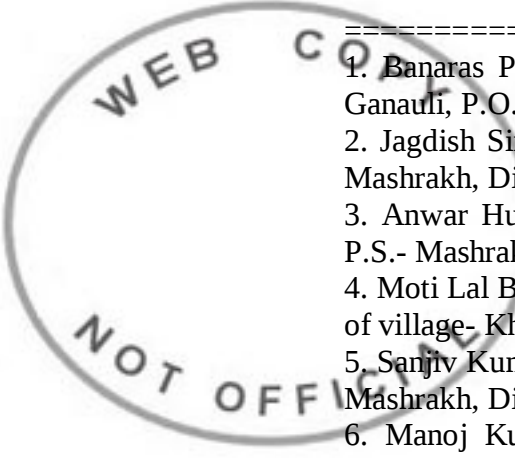


IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1681 of 2016

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1. Banaras Prasad Singh Son of Late Yugal Kishore Singh Resident of village- Ganauli, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 2. Jagdish Singh son of Gaya Singh, Resident of village- Ganauli, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 3. Anwar Hussain Son of Abdul Gafoor, Resident of village- Ganauli, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 4. Moti Lal Bahgat @ Moti Lal Chaurasia, son of Nagu Bhagat Chaurasia, Resident of village- Khajuri, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 5. Sanjiv Kumar Son of Jamuna Tiwary, Resident of village and P.O. - Pakari, P.S.- Mashrakh, District- Saran at Chapra
 6. Manoj Kumar Chaurasia, son of Sri Munshi Bhagat Chaurasia Resident of village- Khajuri, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 7. Sudhir Tiwary, Son of Yaspal Tiwari, Resident of village- Ganauli, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 8. Mani Madhukar, son of Sri Umesh Prasad Singh, Resident of village- Ganauli, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 9. Baidyanath Singh, son of Late Basawan Singh, Resident of village-Durgauli, P.O.- Bansohi, P.S.- Mashrakh, District- Saran at Chapra
 10. Sawalia Pandey, son of Sri Surendra Pandey, Resident of village and P.O.- Bahrauli, P.S.- Mashrakh, District- Saran at Chapra
 11. Shatrughan Kuer, Son of Harihar Nath Kuer, Resident of village and P.O.- Bahrauli, P.S.- Mashrakh, District- Saran at Chapra
 12. Yogendra Singh son of Late Suraj Singh, Resident of village- Bangari P.O.- Dumarsan Bangara, P.S.- Mashrakh, District- Saran at Chapra
 13. Harish Chandra Singh, son of Late Ganesh Singh Resident of village- Ganauli, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 14. Ram Balak Singh, son of Late Ram Lai Singh, Resident of village- Gurgauli, Tole Chakiya, P.S.- Mashrakh, District- Saran at Chapra
 15. Hanif @ Md. Hanif Ansari, sonof Kurban Ansari, Resident of village- Jaithar, P.O.- Mashrakh, P.S.- Taraiyan, District- Saran at Chapra
 16. Asfurddin @ Asarfuddin Son of Israil Mina, Resident of village, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 17. Ram Janam Rai, Son of Sri Deu Rai, Resident of village- Mathiya, P.O.- Kawalpura, P.S.- Mashrakh, District- Saran at Chapra
 18. Brij Kishore Sah son of Mahesh Sah Resident of village and P.O.- Bahrauli, P.S.- Mashrakh, District- Saran at Chapra
 19. Kameshwar Prasad, son of Gobardhan Sah, Resident of village, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 20. Lalan Prasad Rastogi, sonof Saryug Prasad Rastogi, Resident of village- Yadu More, Mashrakh, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 21. Safaddin, Banaras Prasad Singh & Ors son of Israil Mian, Resident of village, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 22. Kishun Sah, son of Sri Sikil Sah, Resident of Mashrakh Station Road, P.O. and P.S.- Mashrakh, District- Saran at Chapra
 23. Jamadar Rai, son of Dumar Rai, Resident of village- Jagauli, P.O.- Bansohi, P.S.- Mashrakh, District- Saran at Chapra
 24. Raghunath Prasad Yadav, son of Ram Chhabila Yadav, Resident of village, P.O. and P.S.- Mashrakh, District- Saran at Chapra

25. Nawal Kishore Singh, son of Ram Ekbal Singh, Resident of village- Jagauli, P.O.- Bansohi, P.S.- Mashrakh, District- Saran at Chapra
26. Udaya Narayan Giri @ Adya Narayan Giri, son of Saheb Giri, Resident of village and P.O.- Dih Chhapia, P.S.- Mashrakh, District- Saran at Chapra
27. Abdul Kalam Azad, son of Shakur Mohammad, Resident of village- Doila, P.O.- Mashrakh, P.S.- Isuapur, District- Saran at Chapra
28. Ladho Devi, wife of Dhaneshwar Bhagat, Resident of village- Mashrakh, Ward No. 2, P.O. and P.S.- Mashrakh, District- Saran at Chapra

.... Petitioner/s

Versus

1. Zila Parishad, Saran at Chapra through the Chairman, District- Saran at Chapra
2. The Chairman, Zila Parishad, Saran at Chapra, District- Saran at Chapra
3. The Chief Executive Officer, Zila Parishad, Saran at Chapra, District- Saran at Chapra

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Anita Kumari, Adv.

For the Respondent/s : Mr. Nikesh Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 03-03-2016

Heard Mr. S.B.K. Mangalam, learned counsel for the petitioner and Mr. Nikesh Kumar learned counsel appearing for the Zila Parishad, Saran.

The petitioner while questioning the Advertisement No. 619 dated 4.12.2015 impugned at Annexure -6 of the writ petition, has prayed for a direction to the authorities of the Zila Parishad to settle the shops in question which is situated on Southern Side of Mashrakh Station Feeder Road at Chapra in the district of Saran in favour of these petitioners.

Undisputed facts of the matter is that these petitioners responded to an advertisement issued by the Zila Parishad, Saran for



allotment of shops way back in the year 1995 and some of them also made deposits of earnest money as well as development cost in terms of the stipulations present. The petitioners rely upon the applications present at Annexures-1 series for this purpose. It is the grievance of the petitioners that the matter having lingered since 1995 and the deposits having remained with the authorities of the Zila Parishad since then, they have by passed the process to publish the advertisement in question impugned at Annexure-6 to seek fresh applications. It is in consideration of the nature of grievance raised herein that the Zila Parishad was directed to file their response and which has since been received. The perusal of the stand taken by the Zila Parishad appears very reasonable. Whereas it is specifically stated by the Junior Engineer swearing the affidavit on behalf of the Zila Parishad that there is nothing on record to support that any application or earnest money deposit was made on behalf of the petitioner nos. 5, 8, 22 and 28, it is further stated that the petitioner Nos. 3, 4, 6, 9, 10,11,13, 16, 17 and 19 had only made deposits of their earnest money but not the development cost. According to Mr. Nikesh Kumar learned counsel for the Zila Parishad these applicants were not only to deposit the earnest money but were also required to deposit 50% of the fixed development charge in respect of the shops. While admitting that 14 of the writ petitioners i.e. petitioner Nos.1, 2,



7, 12, 14, 15, 18, 20,21, 23, 24, 25, 26 and 27 did make deposit of earnest money as well as development cost, the other 10 mentioned above did not make any such deposit of development cost. Mr. Nikesh Kumar thus submits that the Zila Parishad would have absolutely no objection to complete the settlement process with these 14 petitioners who had not only made their earnest money deposit but had also deposited substantial amount of the development charge subject to their deposit of the balance construction cost at the present rate which shall be duly intimated to them. He further submits that in so far as the remaining 14 petitioners are concerned as already stated, either they had not made any deposit or have made deposit of only the earnest money and thus while no consideration can be given to petitioner Nos. 5,8,22 and 28 who have not even deposited the earnest money, in so far as the remaining ten petitioners are concerned i.e. 3,4,6,9,10,11,13,16,17 and 19, the Zila Parishad treating them to be fresh applicants against present advertisement would be issuing the demand notice at the present rate, which if complied with, by these petitioners steps would be taken for allotment.

Having heard learned counsel for the parties, I find the stand taken by the Zila Parishad to be most justified and requires no interference. Considering that the petitioner nos.5,8,22 and 28 had not made any deposit against the earlier advertisement, they are not found entitled to

any directions except that they shall be at liberty to apply against the Advertisement present at Annexure-6.

In so far as the remaining 24 petitioners are concerned, the Chief Executive Officer, Zila Parishad is directed to complete the process of allotment with the 14 petitioners noted above, who have deposited the earnest money as well as development cost partially, in terms of the offer present at paragraph 11 of the counter affidavit. In so far as the 10 petitioners who have only deposited the earnest money is concerned, they should be treated as fresh applicants against the advertisement present at Annexure-6 and necessary steps be taken for allotment in their favour at the present rate.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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