

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1302 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 2116 of 2004**

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Kumar Sitesh Prasun, son of Mukti Prasad, R/o M-3/35, S.K. Puri, P.S. – S.K. Puri,
District – Patna.

.... Appellant

Versus

1. Patna Municipal Corporation through its Municipal Commissioner, Maurya Lok, Patna – 800001 on behalf of Patna Regional Development Authority (dissolved)
2. Municipal Commissioner, Patna Municipal, Maurya Lok, Patna – 800001 on behalf of Patna Regional Development Authority

.... Respondents / Respondents.

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Appearance:

For the Appellant/s : Mr. Madhu Prasun, Advocate.
For the Respondent/s : Mr. Sanjay Prakash Verma, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 25-08-2017

Heard counsel for the appellant.

2. Perused the impugned order dated 22.04.2015 passed by the learned Single Judge which has been appealed against since the Writ Application was dismissed.

3. The appellant was appointed as a Private Secretary to the Minister of Urban Development, Government of Bihar. In that capacity he was allowed House No. M-3/35 vide Office Order No. 194/1995 in anticipation of approval of the Board of Directors of P.R.D.A. on a purely temporary basis since the post the appellant held



was co-terminus with the Minister. Subsequently, vide resolution dated 03.04.1997 the appellant had the privilege of being offered the said house on hire-purchase basis. He was asked to deposit a sum of Rs. 2,24,449/- within 30 days of the issuance of the letter. He deposited only Rs. 25,000/- and looked forward to deposit the rest on installments. Since it was not done, vide decision dated 08.06.2000, the money of Rs. 25,000/- was returned and the allotment cancelled. The Writ Application was filed initially but the Writ was permitted to be withdrawn on the assurance that the P.R.D.A. would consider the case of the appellant. No favourable order came to be passed. Subsequently, the Vice Chairman of the erstwhile P.R.D.A. cancelled the allotment on the basis of initiation of an eviction proceeding which was Eviction Case No. 3/2000.

4. The learned Single Judge taking the facts into consideration and the status and the right of the appellant dismissed the Writ Application primarily for two reasons – firstly, that the status of the appellant by virtue of his post attached to the Minister was co-terminus with the office of the Minister and, secondly, that even if an offer was made under the privileged position which the appellant held then, he failed to avail of the same within a specified time which led to the decision in question.

5. The facts being what they are, no right in favour of the



appellant was ever created. In fact, the appellant lost out a golden opportunity of the privilege which landed in his laps by virtue of his position rather than entitlement.

6. Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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