

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2519 of 2016

=====

Shesh Mani Upadhyay Son of Late Uday Raj Upadhyayat Present residing
at Falt No. 553, Lal Bahadur Shastri Nagar, P.S. Shashtri Nagar, District -
Patna 800 023

.... Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Government of Bihar, Patna
3. The Principal Secretary, Urban Development Department Government
of Bihar, Patna
4. The Bihar State Housing Board, 6, Sardar Patel Marg, Patna, through its
Managing Director
5. The Managing Director, Bihar State Housing Board, 6, Sardar Patel
Marg, Patna
6. The Bhu Sampada Padadhikari, Bihar State Housing Board, 6, Sardar
Patel Marg, Patna
7. The District Magistrate, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ravindra Kr Sinha No.2
For the State : Mr. Harendra Kumar, AC to SC-6
For the Housing Board : Mr. Anshuman Singh, Advocate

=====

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

04/ 05-10-2018

Heard Mr. Ravindra Kumar Sinha No. 2,

learned counsel for the petitioner, Mr. Harendra Kumar, learned
AC to SC-6 for the State respondents and Mr. Anshuman Singh,
learned counsel for the Bihar State Housing Board.

The present writ application has been filed
for quashing the letter No. 9268 dated 16.12.2014, as contained in
Annexure-5, issued under the signature of State Officer, Bihar
State Housing Board, Patna, whereby petitioner's request for



settlement of the barren land adjacent to MIG Flat No. 108 as well as Bajaj Service Centre, has been rejected. Further prayer has been made for directing respondent nos. 4 and 5 to consider the prayer of the petitioner for settlement of the land in question.

It is submitted by learned counsel for the petitioner that the petitioner is an Assistant in High Court and the petitioner learnt that a barren vacant land of the Bihar State Housing Board situated beside the Bajaj Service Centre as well as MIG Flat No. 108 is unsettled which can be used by the middle class family for residential purpose. The petitioner submitted an application before the Secretary, Rural Development Department, Govt. of Bihar, Patna on 18.11.2014 for settlement of the land in favour of the petitioner. Similar application was also filed before the District Magistrate, Patna and Chief Secretary, Government of Bihar, Ptna on 18.11.2014 for settlement of the land in favour of the petitioner, as contained in Annexure-1, 2 and 3. The application of the petitioner was forwarded by the Special Officer, Urban Development and Housing Department, Bihar, Patna to the Secretary, Bihar State Housing Board, Patna vide Memo No. 558 dated 28.11.2014. But without considering the request of the petitioner in its true perspective, the State Officer, Bihar State Housing Board vide Memo No. 9268 dated 16.12.2014, rejected



the application of the petitioner. After receipt of the rejection letter the petitioner again filed an application on 14.01.2015 before the Managing Director, Bihar State Housing Board, Patna, as contained in Annexure-6, for reconsideration of his application which was also rejected by the State Officer, vide letter dated 29.01.2015. Hence, the present writ application. It is further submitted by learned counsel for the petitioner that there was no provision for allotment of the barren land and the request of the petitioner has not been considered in its true perspective.

Mr. Anshuman Singh, learned counsel for the Bihar State Housing Board submits that the procedure of allotment has been prescribed under Bihar State Housing Board Rules and the land and the houses are being allotted to the public at large on the principles of allotment through public bid and he further submits that there is no procedure for allotment of barren land to any person without allotment.

Having considered the rival submissions of the parties, this Court is of the view that when the statute prescribes the procedure to be followed for the allotment of the land or housing unit then it has to be done in that particular manner. A useful reference in this regard may have to in the case of Selvi J. Jayalalithaa & Ors Vs. State of Karnataka & Ors,



reported in 2014 (1) PLJR (SC) 531. The relevant portion of paragraph 29 reads as follows:-

“ We find force in the submissions advanced by the learned Attorney General that this Court generally should not pass any order in exercise of its extraordinary power under Article 142 of such order violates any statutory provisions. We do not intend to say that it would be illegal to extend the term of the Special Judge, but that it is a matter within the jurisdiction of the State in accordance with the relevant law.

There is yet an uncontroverted legal principle that when the statute provides for a particular procedure, the authority has to follow the same and cannot be permitted to act in contravention of the same. In other words, where a statute requires to do a certain thing in a certain way, the thing must be done in that way and not contrary to it at all. Other methods or mode of performance are impliedly and necessarily forbidden. The aforesaid settled legal proposition is based on a legal maxim



“Expressio unius est exclusio alterius”, meaning thereby that if a statute provides for a thing to be done in a particular way, then it has to be done in that manner and in no other manner and following any other course is not permissible....”

Since the Bihar State Housing Board has prescribed the process of allotment of the land or housing unit through public bid, this Court is of the view that no land or the housing unit can be allotted to any person who does not adhere with the procedure prescribed under the Rules.

In view of the discussions made above, this Court finds no merit in this application and accordingly, it is dismissed.

(Dinesh Kumar Singh, J)

DKS/-

U			
---	--	--	--

