

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2639 of 2018

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Firoj Ahmad @ Firoj Alam, Son of Md. Shahjad, Resident of Village- Chhawani
Tikari, P.S.- Tikari, Dist- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
2. The Executive Officer, Nagar Panchayat, Tekari, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bibhuti Narayan, Adv

For the Respondent/s : Mr. Y.P. SINHA- AAG7

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-04-2018

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for quashing the order contained in letter no. 18 dated 09.01.2017 issued by the Executive Officer, Nagar Panchayat, Tekari, Gaya by which the allotment of shop of the petitioner has been cancelled; for a direction to accept the rent of the allotted shop no. 11 from the petitioner; and not to disturb the peaceful possession of the shop.

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that no show cause notice has been issued to the petitioner prior to cancellation of the allotment of his shop, which is wholly illegal and in violation of the terms and conditions of the agreement of allotment.

4. Learned counsel for the respondents appears and has been heard.

5. In the above view of the matter, this Court is satisfied that non-service of show cause notice to the petitioner has resulted in



violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 09.01.2017 (Annexure-5) is hereby quashed and the matter remanded to the Executive Officer, Nagar Panchayat, Tekari, Gaya for taking decision afresh in the matter after service of proper show cause notice to the petitioner and granting an opportunity of hearing in accordance with law.

6. The rent of the shop shall be accepted from the petitioner who shall be entitled to continue in possession of the shop, which shall however, abide by the final result of the fresh decision to be taken as aforesaid.

7. It is made clear that in case the stand of the petitioner denying receipt of show cause notice prior to order of cancellation being passed is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

8. The writ petition stands allowed as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
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