

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15471 of 2016

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Lohia Nagar Mt. Carmel High School W/o Late Ashok Singh, resident of A/4
Housing Board Colony, P.S. Kankerbagh, District- Patna.

... .. Petitioner/s

Versus

1. The Bihar State Housing Board
2. The Managing Director, Bihar State Housing Board.
3. The Estate Officer, Bihar State Housing Board
4. The Executive Engineer, Patna Division II, Bihar State Housing Board. All
at 6, Sardar Patel Marg, Police Station- Sachiwalaya, Patna 800015.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shravan Kumar, Sr. Advocate Mr.Dinesh Maharaj
For the Housing Board	:	Mr. Lalit Kishore, Sr. Advocate Ms. Binita Singh Mr.Anil Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
C.A.V. JUDGMENT
Date : 17.10.2019

The present writ petition has been filed for quashing the order passed by the Managing Director, Bihar State Housing Board, Patna (hereinafter referred to as the Board), as communicated to the petitioner vide letter no. 4665 dated 10.07.2014 whereby and whereunder the representation of the petitioner has been rejected.

The brief facts of the case are that the respondent Board had published an advertisement in the local daily newspaper on 10.05.2008 wherein applications were invited for allotment of land earmarked for educational institutions and



health centres, in the various housing colonies situated at Lohia Nagar and Bahadurpur Housing Colony, Patna.

The petitioner is stated to have obtained the prescribed application form and had submitted the duly filled up application forms, along with the requisite money to be deposited, on 21.05.2008. The petitioner had applied for allotment of the plots earmarked for Primary School situated at Lohia Nagar Housing Colony i.e. Plot No. P.S.-1, Sector No. 1, admeasuring an area of 0.61 acres. It is the contention of the petitioner that the petitioner had then received a letter dated 21.07.2008 from the respondent Board wherein it was stated that the petitioner had not submitted the letter of recommendation issued by the Department, hence the same should be submitted within one month. In response, the petitioner had submitted the affiliation letter issued by the I.C.S.E. Board. Subsequently, the petitioner received a letter dated 30.10.2009 wherein it was stated that the Committee constituted by the Board for allotment of plots had held its meeting on 11.07.2009 and had rejected the applications received from the educational institutions regarding allotment of plots to such education institutions and the amount of Rs. one lakh deposited by the petitioner was refunded. The petitioner



had then approached this Court by filing a writ petition bearing CWJC No. 7421 of 2010 and this Court by an order dated 24.09.2013 had remanded the matter back to the Managing Director of the respondent Board for the purposes of deciding the claim of the petitioner for allotment of land for setting up educational institution inasmuch as the aforesaid letter dated 30.10.2009 rejecting the application of the petitioner, had been found to be a cryptic order, indicating no reasons for rejection. The petitioner had then filed a representation/claim petition dated 30.03.2014 before the Managing Director of the Board which has been rejected by the Managing Director by the impugned order contained in letter dated 10.07.2014 on the ground that the petitioner has failed to furnish the recommendation letter issued by the Department.

The learned senior counsel for the petitioner has submitted that as per Section 51 of the Bihar State Housing Board Act, 1982, only the Board has the power to retain, lease, sale, exchange or otherwise dispose of any land, building or other property vested in it and situated in the area comprised in the housing scheme. The learned senior counsel has also referred to regulation 3 and 6 of the Bihar State Housing Board (Management and Disposal of Housing Estate) Regulation,



1983, according to which the said regulations are required to be administered by the Managing Director subject to general guidelines and resolutions of the Board and further the disposal of a property has to be effected either by sale or by hire purchase or any such other manner and subject to such terms and conditions as may be decided by the Board from time to time. It is thus the contention of the learned senior counsel for the petitioner that the impugned decision of the Managing Director is contrary to the decision of the Board which had decided to allot the earmarked plots in the Housing Board colonies situated at Lohia Nagar and Bahadurpur to the educational institutions and health centres, which is clear from the advertisement issued by the Board on 10.05.2008, hence the Managing Director has no power to sit over the same and insert conditions which were never stipulated in the advertisement dated 10.05.2008, as such the order passed by the Managing Director, which has been challenged in the present proceedings, is illegal and fit to be quashed. The learned senior counsel for the petitioner has further submitted that there is no provision for taking any approval or recommendation from the Department, once the affiliation has already been granted to the educational institutions and in the present case the petitioner has already



been affiliated by the I.S.C.E. Board for which a certificate has been issued and the same was also deposited with the respondent Board, nonetheless, the case of the petitioner has been rejected for want of recommendation by the Department. It is thus the contention of the learned senior counsel that the respondent Managing Director has passed the impugned order arbitrarily and in a mala fide manner, hence the said order dated 10.07.2014 is fit to be quashed.

Per contra, the learned Advocate General appearing for the respondent Housing Board has submitted that a bare perusal of the advertisement dated 10.05.2008 itself would show that the application has to be submitted in the prescribed application form (containing the requisite documents pertaining to allotment as also the terms and conditions of the allotment). The learned Advocate General has referred to the application form which is at running page no. 86 of the brief of the present writ petition as also the terms and conditions regarding allotment of plots reserved for educational institutions, which is present at running page no. 88 of the brief of the present writ petition and the very first conditions states that institutions must have recognition either from the Education Department/Board having affiliation/recognition from Central or State Government



and educational institution must have proper recommendation from the same. The learned Advocate General has further submitted that the petitioner had submitted his application form without complying with the aforesaid first condition, nonetheless, a Committee was constituted by the Board to take a decision on the applications received for the purposes of allotment of plots to the educational institutions and the said committee in its meeting held on 10.07.2008, upon careful consideration of all the applications, found that the petitioner had neither complied with clause-1 of the aforesaid terms and conditions, nor submitted the recommendation letter, hence it was decided to grant a chance to the petitioner to furnish the said documents whereafter a letter dated 21.07.2008 was sent to the petitioner to furnish the letter of recommendation issued by the Department but the petitioner did not submit the same, hence the committee, in its meeting held on 11.07.2009, decided to reject the application of the petitioner and refund the amount in question whereafter the decision was communicated to the petitioner and the amount of Rs. one lakh an odd, deposited by the petitioner, was refunded. The learned Advocate General has further submitted that the decision of the Managing Director, as contained in letter dated 10.07.2014, is in line with the decision



of the Board inasmuch as the aforesaid condition regarding furnishing of letter of recommendation by the Department was an integral part of the application form itself.

I have heard the learned senior counsel for the petitioner and learned Advocate General appearing for the Housing Board and I find that the decision of the Managing Director of the Board, as contained in letter dated 10.07.2014 is not contrary to the decision of the Board. Though the learned senior counsel for the petitioner has based his argument on the advertisement dated 10.05.2008, which according to him, does not contain the condition regarding furnishing of letter of recommendation by the Department/Education Department, however, the fact is that the said advertisement dated 10.05.2008 itself refers to the requirement of the application being filed in the appropriate format (containing the terms and conditions for allotment of the plot in question), which can be obtained from the office of the Board upon furnishing the requisite fees and to the said application form, the terms and conditions for allotment of plots reserved for educational institutions were annexed, which can be found at running page no. 88 of the brief of the present writ petition, which clearly prescribes that the institutions are required to furnish letter of recommendation



issued by the Education Department, which has not been furnished by the petitioner. This Court further finds that the petitioner has not challenged the aforesaid condition regarding furnishing of letter of recommendation from the Education Department, hence at this juncture, it cannot be argued that there is no requirement of taking such approval from the Education Department after the institution has been affiliated by the Board in question i.e. I.C.S.E. Board in the present case. This Court is of the opinion that the petitioner having not complied with the terms and conditions, as stipulated in the application form i.e. regarding furnishing of letter of recommendation from the Education Department, is not eligible for allotment of the plot in question, hence this Court finds that the Managing Director of the Housing Board has rightly rejected the case of the petitioner by the impugned order contained in the letter dated 10.07.2014. In any view of the matter, the petitioner cannot claim that either the aforesaid order has been passed, only to its prejudice or it has been discriminated with, inasmuch as on the ground of non-furnishing of letter of recommendation from the Education Department, the application forms of all the educational institutions, who had applied pursuant to advertisement dated 10.05.2008 have been rejected.



Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, I do not find any merit in the present writ petition, hence the same is dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	NAFR
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