

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.818 of 2017

In
Civil Writ Jurisdiction Case No.10032 of 2013

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1. The Bihar State Housing Board through the Managing Director, 6 Mangles Road, Patna.
 2. The Manager Estate, Bihar State Housing Board through Managing Director, 6 Mangles Road, Patna.
 3. The Executive Engineer, Bihar State Housing Board, Bhagalpur.
 5. The Assistant Engineer, Bihar State Housing Board, Purnea.

... .. Appellant/s

Versus

1. Pramod Kumar, S/O Shri Janak Lal Yadav, Resident of Village - Basgara, P.O. Jalehi, P.S. K. Nagar, District - Purnia.
2. Dr. Milind Kumar, S/O Sri Sadanand Jha, Village and Post - Bhawanipur, Navagachiya, District - Bhagalpur.
3. Sri Taranand Yadav, S/O Late Upendra Narayan Yadav, Village - Kumariya, P.O. Parasmani, P.S. Mirganj, District - Purnea.
4. Manoj Kumar Yadav, S/O Late Sundar Yadav, Village - Basagara, P.O. Jagaili, P.S. K. Nagar (Sri Nagar), District - Purnea.
5. Suresh Prasad Bhagat, S/O Late Ram Krishna Bhagat, Village - Kash Nagar, P.O. Pakariya, P.S. Sonavarsha Raj, District - Saharsa.
6. Deepak Kumar, S/O Late Srikant Choudhary, Mohalla - Line Bazar, PO Head Post Office, P.S. K. Hat, District - Purnea.
7. Dileep Kumar Sharma, S/O Sri Bachchu Lal Sharma, Village - Jai Prakash Nagar, College Road, P.O. Purnea, P.S. Khajanchi Hat, District - Purnea.
8. Sri Chandra Shekhar Rai, S/O Late Satyadev Rai, Village - Naharwat, P.O. Mainagram, P.S. Mahishi, District - Saharsa.
9. Pushp Raj Bachchan, S/O Bujdev Pd. Yadav, Village and P.O. Singhiya, P.S. K. Nagar, District - Purnea.
10. Smt. Chandrakanta Devi, Wife of Arvind Kumar Azad, Village - Champanagar, P.O. Banaili, P.S. K. Nagar, District - Purnea.
11. Pradeep Kumar Gupta, S/O Sri Gulab Chandra Prasad Gupta, Village - Champanagar, P.O. Banaili, P.S. K. Nagar, District - Purnea.
12. Jai Govind Mehta, S/O Late Baldev Mehta, Village - Prasadpur, P.O. Banaili Champanagar, P.S. K. Nagar, District - Purnea.
13. Smt. Sushila Devi, H/O Late Kumar Dev Yadav, Vill. - Mohani, P.O. Betauna, P.S. Kasaba, Distt. - Purnea.
14. Hem Narayan Mehta, S/O Bhairav Prasad Mehata, Vill. - Chandi Kathava, P.O. Rani Patra, Distt. - Purnea.
15. Sri Suresh Kumar Mehata, S/O Sri Neva Lal Mehata, Vill. - Motinagar, P.O. Ranipatra, Distt. - Purnea.



16. Sri Bimal Kumar Mehata, S/O Sri Neva Lal Mehata Vill. - Motinagar, P.O. Ranipatra, Distt. - Purnea.
17. Smt. Padma Kumari, W/O Vishvanath Mehata, Vill. - Chandi Kathava, P.O. Ranipatra, Distt. - Purnea.
18. The State of Bihar through the Commissioner - Cum - Principal Secretary, Department of Urban Development & Housing Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anshuman Singh, Adv.
For the Respondent/s : Mr. Yogendra Prasad Sinha, AAG-7

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 05-08-2019

The Bihar State Housing Board through its Managing Director has approached this Court in this intra court appeal feeling aggrieved by a judgment and order dated 11.09.2015 of a learned Single Judge passed in CWJC No.10032 of 2013, whereby the writ petition had been allowed in following terms:

“Thus, in my considered view, the Committee is not a temporary one. It is clear from impugned Annexure 5 itself that the scheme was never closed and waiting list was kept alive and that is the reason why Annexure 5 has been published by the Board ending scheme and bringing the waiting list to zero, therefore, this stand cannot be taken by the Board that at that point of time, the Committee was not in existence specially when that stand has not been taken in the counter affidavit.

Accordingly, in my considered view, the waiting list with respect to the HIG and MIG plots which was admittedly kept alive without any objection by the Board till the notice published in Annexure 5, cannot be allowed to lapse as per the impugned notice without any decision having been taken by the State Government upon the recommendation of the Committee.



Accordingly, this writ application succeeds and it is held that notice published in Annexure 5 would not affect the waiting list of the HIG and MIG category of Indra Nagar Residential Colony, Purnea which is subject matter of this writ application till a final decision upon recommendation of the Divisional Allotment Committee is taken.

Let the State Government take a decision upon the aforesaid recommendation expeditiously.”

The decision of the Divisional Allotment Committee of entertaining the waiting list was made subject to a final decision taken by the State Government in its Urban Development and Housing Department. Since according to the Housing Board, there existed an invalidity in the decision of the Divisional Allotment Committee that this appeal was filed and when the appeal was taken up on 09.07.2019 that this Court taking note of the directions contained in the order of the learned Single Judge in requiring a decision by the State Government on the decision so taken by the Divisional Allotment Committee, directed the Principal Secretary, Urban Development and Housing Department to file an affidavit in compliance of the directions.

It is thereafter that a supplementary counter affidavit is filed on behalf of the Principal Secretary, Urban Development and Housing Department enclosing an order bearing No.982 dated 27.07.2019 enclosed at Annexure ‘A’ to the affidavit whereby the decision of the Divisional Allotment Committee has been rejected, thus bringing to an end whatsoever the claims that lay with the respondent-writ petitioners.

It is in view of this development that Mr. Anshuman Singh, learned counsel appearing for the Housing Board submits that by the



decision of the State Government in its Urban Development and Housing Department in rejecting the recommendation of the Divisional Allotment Committee, the issue raised has been rendered infructuous and the appeal be disposed of accordingly. We accordingly do so, to dispose of the appeal in the light of the decision of the Principal Secretary, Urban Development and Housing Department present in the order bearing Memo No.982 dated 27. 07.2019 while preserving liberty for the respondent-writ petitioners, if so advised, to question the same by filing an appropriate application before the appropriate forum.

The interlocutory application, if any, stands disposed of.

With the observations/liberty above we dispose of the appeal.

(Jyoti Saran, J)

(Partha Sarthy, J)

skpathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.08.2019
Transmission Date	NA

