

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20653 of 2012

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Shashi Bhushan Pd. Singh S/O Late Bachchan Prasad Singh, R/O Vill.-
Sarmera, P/S- Sarmera In The District Of Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar, through its Principal Secretary, Building Construction and Housing Deptt., Govt. of Bihar, Patna
2. The Managing Director, Bihar State Housing Board, Patna
3. The Manager, Landed Estate, Bihar Housing Board, Patna
4. The Secretary, Bihar State Housing Board, Bihar, Patna
5. The Superintending Engineer, Bihar State Housing Board, Patna
6. The Executive Engineer, Bihar State Housing Board, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjeev Kumar, Adv.
For the Respondent/s	:	Mr.Sajid SalimKhan, SC- 25
		Mr. A.D. Siddique, AC to SC 25.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 23-08-2019

The present writ petition has been filed for quashing the letter dated 28.11.2007 issued by the Secretary, Housing Board, Patna whereby and whereunder the proposal for allotment of a plot in favour of the petitioner bearing plot No. G-627 situated at Lohiya Nagar, Patna has been rejected without any reason. The petitioner has further prayed for directing the respondents, Bihar State Housing Board, Patna (hereinafter referred to as "the Board") to execute an agreement with the petitioner in view of the allotment order dated 21.10.1981.



2. The brief facts of the case are that the petitioner had submitted an application on 11.08.1981 for allotment of a plot and submitted the registration fee in favour of the Board, whereafter the respondent Board had allotted a plot bearing plot No. G-627 at Lohianagar vide allotment order dated 21.10.2981 and the petitioner was directed to deposit a sum of Rs.1,933/- which included 25% cost of the land. In the said allotment letter it was further stated that the balance amount of interim cost amounting to a sum of Rs. 7,299/- is required to be deposited by the petitioner in 60 monthly instalment. The petitioner had then deposited a sum of Rs. 2000/- on 23.03.1981 i.e. within the stipulated time. Subsequently, vide letter dated 05.02.1992, the Manager, Real Estate cum Joint Secretary of the Respondent Board asked the Executive Engineer of the Board, posted at Patna Division-1, Patna, about the current position of the plot no. G-627. Again similar letter dated 26.12.1995 was written by the Manager, Real Estate to the Executive Engineer of the Board asking him about the current status of the said plot in question. However, no report was sent by the said Executive Engineer. Thereafter, the petitioner came to know that an illegal encroachment has been



made over the aforesaid plot in question by one Bodha Ram Yadav, whereafter the petitioner had written several letters to the respondents Housing Board, however, no action was taken by the respondent Board. Nonetheless, it appears that the Secretary of the Board had put up a note to be placed in the 222nd meeting of the Board vide noting dated 13.07.2007 wherein he had recommended for taking the cost of the plot and thereafter enter into execution of agreement so that the possession of the plot can be given to the petitioner, however, the Board in its meeting held on 21.08.2007 rejected the said proposal, put up by the Secretary of the Board. However, no reason whatsoever was assigned for the same. The said decision of the Board was communicated to the petitioner vide letter no. 6132 dated 28.11.2007.

3. The learned counsel for the petitioner has submitted that from a bare perusal of the minutes of the 222nd meeting of the Board held on 21.08.2007, it would be apparent that without assigning any reason, the recommendation made by the Secretary of the Board dated 13.07. 2007 for allotment of the plot in question to the petitioner herein and handing over the possession of the land



of the said plot to the petitioner, after receiving cost of the land and entering into the agreement, has been rejected.

4. Per contra, the learned counsel for the respondent Housing Board has referred to the counter affidavit filed on behalf of the respondent Board and has submitted that since the petitioner had not completed the formality, allotment order could not be issued in his favour, hence, his case was rejected by the Board and the same was communicated to the petitioner vide letter dated 28.11.2007.

5. I have heard the learned counsel for the parties and gone through the materials on record from which it is apparent that the respondent Board had admittedly issued an allotment letter dated 21.10.1981, whereafter the petitioner had also deposited the initial amount, as directed by the Housing Board. It is also apparent that the Secretary of the Board by his noting dated 13.07.2007 has clearly stated that the said plot No. G-627, situated at Lohianagar, Patna, as allotted to the petitioner herein, is free from encumbrances and after obtaining the current price, agreement can be entered into and the final possession of the said land can be given to the petitioner herein. Nonetheless, the Board in its 222nd meeting dated 21.07.2007 has rejected the proposal forwarded by the Secretary of the Board by one word



“अस्वीकृत”, without disclosing any reason whatsoever for such rejection, thus this Court is of the view that the action of the Board is un-reasoned, perverse, illegal and contrary to law. In fact, in the counter affidavit filed by the respondent Board, no reason whatsoever has been furnished for rejecting the case of the petitioner for allotment of the said plot in question, despite a positive note having been placed by the Secretary of the Board dated 13.07.2007. It appears that since the case of the petitioner, regarding him being entitled to possession of the said plot in question after payment of the balance cost of land, is genuine and does not suffer from any illegality or irregularity, the respondent Board has not found any reason to state in the counter affidavit, filed by them so as to deny the claim of the petitioner herein. In such view of the matter, this Court is left with no option but to set-aside the letter no. 6132 dated 28.11.2007 issued under the signature of the Secretary of the Board, hence the same is quashed.

6. The writ petition stands allowed with a further direction to the respondent Board to immediately assess the balance amount of land in question to be taken from the petitioner herein for the purposes of entering into an agreement and handing over the possession of the aforesaid plot No. G-



627, situated at Lohianagar, Patna.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15-10-2019
Transmission Date	N/A

