

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7186 of 2020

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1. Ranu Das, Wife of Subhash Das Resident of Station Road, Subhas Nagar, P.O.- Khuskibag, Purnia East, District- Purnea, Pin Code- 854305.
 2. Arvind Kumar Yadav, Son of Hari Krashan Yadav Resident of Ward No.36, Shastri Nagar, Gulabbagh, Rajendra Market Ke Piche, District- Purnea, Pin Code- 854301.
 3. Babita Devi, Wife of Sri Arvind Kumar Resident of Pologram, Gulabbag, Hansdah, Purnia East, District- Purnea, Pin Code- 854326.
 4. Mukesh Jayasaval, Son of Shambhu Jayasaval Resident of Near Big Maszid, Khuskibagh, Purnia East, District- Purnea, Pin Code- 854305.
 5. Kunal Das, Son of Sri Subhash Das Resident of Near Station Road, Subas Nagar, Kuskibag, Purnia East, District- Purnea, Pin Code- 854305.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Agriculture Department, Bihar, Patna.
2. Administrator, Bihar State Agriculture Marketing Board (Dissolved), Patna.
3. District Magistrate, Purnea.
4. Sub Divisional Officer, Sadar, Purnea-cum-Special Officer, Agriculture Marketing Board (Dissolved), Gulab Bagh, Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava, Advocate
For the Respondent/s : Mr. Sarvesh Kumar Singh, AAG-13

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 07-01-2021

Heard Mr. Abhinav Srivastava, learned counsel for
the petitioners and Mr. Sarvesh Kumar Singh, learned
AAG-13 for the State.

The present petition has been filed against the
office order dated 23.06.2020 contained in Memo No. 673



passed by the Administrator, Bihar State Agriculture Marketing Board (Dissolved), Patna under the Agriculture Department of the State of Bihar by which the allotment made in their favour of the spaces/buildings in the campus of the Agriculture Marketing Board (Dissolved), Gulab Bagh in the district of Purnea has been cancelled and the petitioners have been asked to vacate the premises with immediate effect.

It was urged on behalf of the petitioners that without any reason and without communicating such reasons to the petitioners, the order of allotment and the agreement with the petitioners had been rescinded.

A counter affidavit was filed on behalf of the State in which it has been stated that after coming into the force of the Repeal Act, 2006, the Bihar State Agriculture Marketing Board, stood dissolved and the assets and liabilities vested in the State Government in the Department of Agriculture. An Administrator of the Board was appointed.



On an application made by one Mukesh Jaisawal before the Sub-Divisional Officer-cum-Special Officer, Purnea on 26.12.2019, requesting the building in question to be permitted to be repaired by him and to be used after giving fair rent to be fixed by the authorities, the request was allowed and all such applicants who had requested for allotment of Employees Quarters, Guard Rooms, Guest Houses, Check Posts and other buildings in the campus of the Agriculture Board of Purnea were let out. Before doing that, by virtue of an agreement, the allottees were directed to undertake the work of repair and maintenance and also to pay fair rent which would be fixed by the authorities. This was on the asking of the applicants including the petitioners. The decision to let out the buildings had the approval of the Secretary of the Agriculture Department, Government of Bihar.

The petitioners claim that by virtue of the agreement with them, they paid the rent fixed for the premises and also invested reasonable amount of money in



the repairs as the buildings allotted to them were not in habitable condition.

Thereafter, the Secretary of the Agriculture Department, on review of the records and the file, found that the resolution of the Government contained in Memo No. 566 dated 23.12.2016 delineating the process and the method by which the buildings could be let out to persons in general, had not been followed but had been breached completely. According to Clause 4(I) and 5(V) of the aforesaid resolution, it was incumbent upon the Special Officer to allot the buildings only by way of public auction and notice of such auction was required to be published in two local dailies having circulation in the area. Since the aforesaid conditions were not fulfilled, the Secretary, Department of Agriculture, on review of the relevant files, found it appropriate to cancel the agreement with the allottees including the petitioners.

Mr. Srivastava, learned Advocate for the petitioners contends that when the allotment was made to



them and an agreement was entered into, it was with the approval of the departmental Secretary and the petitioners had no role to play except for making a request by way of an application which was accepted by the Administrator. Even if the rules were bypassed, the petitioners at least were required to be noticed, explaining the reasons why even after payment of the rental fixed by the authorities, the agreement was being cancelled midway. The petitioners also lamented that without giving any prior notice, a decision to ask the allottees to vacate the premises was taken and some of them were also dispossessed in haste.

It was under these circumstances that the petitioners had approached this Court.

An Interlocutory Application was filed on behalf of the State stating the aforesaid facts and praying for vacating the order of stay which was passed by this Court on 31.08.2020.



This Court, after going through the records, finds that the resolution of the Government dated 23.12.2016 is in place and while the allotment to the petitioners and others were made, there was a complete departure from the principles which have been laid down in the resolution.

Though the petitioners are not to be blamed for such allotment but it has been argued that they ought to be recompensed for the investments that they have made in the respective buildings.

After hearing the parties, this Court asked the learned AAG-13 to take instructions from the concerned authority whether the petitioners/allottees who have not yet been dispossessed could be allowed to remain in the premises till the auction process is finalized and whether the rental which has been exacted from them would be returned. He was also asked to take instructions with respect to the feasibility of quantifying the investments made by the petitioners/allottees so that the same could be directed to be returned to them as also whether the



petitioners would be permitted to participate in the fresh auction process without any prejudice to their cause.

While asking for such clarification, the Court was *prima facie* convinced that the allotment was in breach of the resolution of the Government and therefore the same could not be allowed to be perpetuated. However, since the allottees/petitioners were not at fault, they are definitely required to be compensated for the investments that they had made in the demised premises.

In response to the aforesaid observation of the Court, it was contended on behalf of the State that since none of the petitioners were in possession of any one of the allotted premises, the request for their being allowed to remain in the premises till the time the auction process is finalized, was not required to be considered. The rent exacted from them would also not be possible to be returned but the process of returning the security deposits has begun.



This Court was informed that constitution of a Technical Committee was in contemplation for quantifying the investments made by the petitioners in those premises for the purposes of returning the quantified amounts to them. The State has also indicated that the petitioners would be permitted to participate in the fresh auction process along with the other contenders.

The request of the petitioners for allowing them to remain in the premises till the time the auction process is finalized, was not accepted by the State on the ground that if allotment itself was illegal, the petitioners could not be permitted to take advantage of illegal allotment even though they were not at fault.

Under the aforesaid circumstances, as observed earlier, this Court is the view that the decision of the Government to recall / rescind the order of allotment cannot be faulted with except for there being no notice to the petitioners before such a decision was taken.



The decision of the government therefore cannot be interfered with.

However, it is directed that the petitioners shall be permitted to take away their belongings from the allotted premises. They shall be returned their security deposits and the process of quantification of the investments made by them be completed within a period of three months or before the auction process is finalized, whichever is earlier and return the amount so quantified to the allottees / petitioners.

Needless to state that the petitioners shall be permitted to participate in the fresh auction process, if they so desire.

With the aforesaid observation / direction, this petition stands disposed off.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	15.01.2021
Transmission Date	

