

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6918 of 2021

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Birendra Kumar alias Birendra Sharma alias Birendra Kumar Sharma, S/o Sri Lal Bihari Sharma, R/o village-Mehandia, PO-Jaipur, PS-Mehandia, District-Arwal

... .. Petitioner/s

Versus

1. The District Board Arwal, through its Chief Executive Officer cum District Development Commissioner, Arwal (Bihar)
2. District Magistrate, Arwal
3. Deputy Development Commissioner cum Chief Executive Officer Arwal District Arwal
4. Block Development Officer, Arwal

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Diwakar Prasad Singh, Adv
For the Respondent/s : Mr.Lalit Kishore (AG)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-01-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“ That in this writ petition challenge in made to the legality & validity of the action of the Respondent Deputy Development Commissioner cum Executive Officer, Arwal who canceled the allotment of Shop NO. 16 situated at Mehandia Market Complex without any show cause notice & opportunity of hearing by Memo No. 522 dated 01.09.2016 Subsequently the

petitioner meet with the respondent no. 3 Respondent Deputy Development Commissioner cum Executive Officer Arwal & apprised the facts then it came out that it was handwork of a clerk namely Mantu Babu & The respondent Deputy Development Commissioner cum Executive Officer Arwal sought a report from the same clerk asking in Margin of application submitted by the petitioner Quote ***“Mantu Babu File se bastuesthiti ke sath”*** in Hindi. Unquote subsequently the same clerk Mantu Babu neither submitted any report nor given to meet with the respondent no. 3 but on 10.10.17 the petitioner forcibly meet with respondent no. 3 & requested that there happened dues of rent of 12 months to which the petitioner be permitted to deposit upon which the respondent no. 3 Deputy Development Commissioner directed the Head Assistant to accept the rent by envisaging register but the head Assistant never accepted the Rent but on 23.01.21 published a letter on notice board asking the interested person to Deposit Rs. 5000/- Registration Fee to appear in Auction of the shop no. 16 of the petitioner. As such the present application is being filed for the following main relief:

(i) That for issuance of appropriate writ, order of direction of writ in the nature of certiorari quashing the Memo NO. 522 dated 01.09.16 by which allotment of Shop No. 16 situated at Mehandia Market Complex settled by Block Development officer Arwal was canceled by Deputy Development Commissioner without any opportunity of Hearing since the

office bearer had greedy eye over the shop of the petitioner.

(ii) That for issuance of appropriate writ, order of direction of writ in the nature of certiorari quashing the notice dated 23.01.2021 to the extent it directs auction of shop of the petitioner bearing Shop No. 16 situated at Mehandia Market complex.

(iii) That for issuance of appropriate writ, order or direction of writ in the nature of Mandamus commanding the Respondent Deputy Development Commissioner cum Executive Officer, Arwal, not to proceed with the auction of shop of the petitioner & direction be given to accept the lease Rent of shop through Bank Account. ”

After the matter was heard for some time, learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is issued to the authority concerned to consider and decide the representation which the petitioner shall be filing within a period of four weeks from today for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioner, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of three months from the date of its filing along with a copy of this order.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner shall approach the authority concerned within a period of four weeks from today by filing a representation for redressal of the grievance(s);

(b) The said authority shall consider and dispose it of expeditiously by a reasoned and speaking order preferably within a period of three months from the date of its filing along with a copy of this order;

(c) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(d) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(e) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(f) Liberty reserved to the petitioner to approach the appropriate forum, if the need so arises subsequently on the

same and subsequent cause of action;

(g) We have not expressed any opinion on merits. All issues are left open;

(h) The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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