

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13228 of 2017

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Jayanti Chaudhary wife of Rajendra Chaudhary, and C/o Radho Chaudhary,
resident of M.I.G. 312, Kankarbagh, Patna, P.S. Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Urban Development and Housing Department,
Government of Bihar, Patna.
3. The Deputy Secretary, Urban Development and Housing Department,
Government of Bihar, Patna.
4. The Divisional Commissioner, Patna Division, Patna.
5. The District Magistrate, Patna, District- Patna.
6. The Municipal Commissioner, Patna Municipal Corporation, Patna.
7. The Estate Officer, Patna Municipal Corporation, Patna. null null

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashutosh Kumar, Advocate
For the Respondent/s	:	Mr. Abbas Haider, SC 6
For the P.M.C.	:	Mr. Prabhakar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 31-07-2023 Heard the parties.

2. The present writ petition has been filed for the
following reliefs:-

*i) for issuance of an appropriate writ in the
nature of MANDAMUS commanding and directing
Respondent Nos. 6 and 7 to produce on record the*



cancellation letter of allotment of the petitioner of Flat No. 207 Type-11/93 which was communicated under letter no.565 dated 10.08.2007 and on production the same may be quashed by issuance of an appropriate writ in the nature of CERTIORARI on the ground that the allotment has been cancelled without asking any show-cause notice or giving opportunity to the hearing of the petitioner;

ii) for issuance of an appropriate writ in the nature of CERTIORARI letter no.5087 for quashing the order contained in dated 29.09.2012 issued under the signature of the Respondent no.7 whereby and where under the applications dated 09.04.2012, 16.08.2012 and 18.08.2012 filed by the petitioner for allotment of the Flat in question on payment of remaining amount has been rejected without any consideration of the facts as made in the said application regarding accident of the petitioner;

iii) for issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 07.10.2016 passed by the Respondent no.2 whereby and where under the Respondent no.2 has been wrongly held that the Respondent no.6 had cancelled the allotment of



the petitioner according to the Rules and Conditions and refused to pass any order against the order passed by the Respondent no.6.

iv) for issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities to allot the Flat No.207 Type -II/93 situated in Kankarbag on payment of remaining amount of the Flat.

3. Learned Counsel for the petitioner submits that though admittedly, the amount is deposited, the flat was not allotted to her.

4. He further submits that the cancellation order was never provided to her so that she could challenge the same.

5. A counter affidavit has been filed on behalf of the Estate Officer, Patna Municipal Corporation, Patna and in paragraph 4, it has been submitted that though the petitioner paid Rs. 1,65,000/- from 1995 to 2005, despite several letters sent to her, she failed to appear. This was followed by newspaper publication and only thereafter the allotment was cancelled vide letter no. 565 dated 10.08.2007.

6. As such, the learned Counsel appearing for the Patna Municipal Corporation submits that the petitioner is not



entitled for the relief. He further submits that it was informed in the cancellation order itself that the amount deposited by the petitioner stands forfeited.

7. Learned Counsel for the petitioner submits that though there has been some lapses on her part, the fact remains that the amount was never returned to her and as such and/or she was never provided the cancellation order, if the flat is still vacant and/or not allotted to anyone, the Patna Municipal Corporation can consider her case.

8. On the last occasion, Mr. Prabhakar Singh, learned Counsel for the Patna Municipal Corporation was asked to verify from the Corporation whether the flat in question has been allotted to anyone or is vacant. Today, it has been informed by him that the same is still vacant.

9. In that view of the matter, although there is/are lapses on the part of the petitioner, the fact remains that the amount deposited by her was never returned and/or cancellation order was never provided/communicated to her and in that background, when the flat is still vacant, she may be given a chance subject to fulfillment of the terms and conditions imposed by the Patna Municipal Corporation.

10. The petitioner shall file representation along with



all the connecting documents within four weeks from today before the Municipal Commissioner, Patna Municipal Corporation and the same shall be considered sympathetically and a reasoned order be passed within next three months from the date of representation.

11. This order has been passed on the information given by Mr. Prabhakar Singh, learned Counsel appearing for the Patna Municipal Corporation that the flat in question is still vacant.

12. The writ petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

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