

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18152 of 2022

1. Daud Zafar, Son of Fakhruddin Ansari, Resident of Nalband Toli, Ward No. 26, Buxar, Police Station -Buxar Town in the District of Buxar.
2. Anwar Ahmad, Son of Late Shah Mohammad, Resident of Jahaj Ghat, Ward No.13, P.P. Road, Buxar, Police Station- Buxar Town in the District of Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The District Magistrate, Buxar.
4. The Nagar Parishad, Buxar through its Executive Officer.
5. The Executive Officer, Nagar Parishad, Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Advocate
For the Respondent/s	:	Mr. Subhash Pd. Singh (GA-3)
		Mr. Dilip Kumar, AC to GA-3
For the Nagar Parishad	:	Mr. Ashok Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 16-08-2023

Heard Mr. Sunil Kumar, learned counsel appearing on behalf of the petitioners, Mr. Ashok Kumar, learned counsel representing the Nagar Parishad, Buxar. The State is represented by Mr. Subhash Prasad Singh, learned GA-3.

2. The petitioners have invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India seeking quashing of the Office order, as contained in Letters No. 2869 and 2874 dated 17.10.2022, issued under the



signature of Executive Officer, Nagar Parishad, Buxar (respondent no.5) by which the land allotted to the petitioners was cancelled and further directed to vacate the land, failing which appropriate legal action would be taken against them.

3. It is submitted by the learned counsel for the petitioners that both the petitioners were allotted 80 and 90 sq. feet of land in Khata no. 509, Plot no. 542 at the monthly rent of Rs.320/- and 360/- per month respectively by the Executive Officer, Nagar Parishad, Buxar in the year 2013 under the agreement executed between the petitioners and the Nagar Parishad. While they were in peaceful possession of the land, in question, and have been running their petty shops over the allotted land, all of a sudden, the impugned office orders have been issued, though the petitioners have earlier already deposited Rs.20,000/- each (total Rs.40,000/-) for development charges and monthly rents are also being paid to the Nagar Parishad, Buxar.

4. He further submits that prior to the issuance of impugned office orders, show-cause notices were issued to the petitioners under the signature of the Executive Officer, Nagar Parishad, Buxar, as to why not the allotment of the land, in question, be cancelled for violation of the terms and conditions



of Sub-Clause 4 of the allotment letter/ agreement.

5. It is next submitted that in response to the aforesaid notices, the petitioners filed their respective explanations before the Executive Officer, Nagar Parishad, Buxar, but in spite of considering the aforesaid explanations, he came out with another office order, which are impugned herein, stipulating that till date the Nagar Parishad, Buxar has not received any explanation and in absence thereof the allotment of the land in favour of the petitioners stood cancelled and further directed to remove the Puckka structure made over the land and vacate the same.

6. Learned counsel representing the Nagar Parishad, Buxar, while drawing the attention of this Court to the notices issued to the petitioners, submits that the notices clearly suggest that there is clear violation of Clause- 4 of the allotment letters, as the petitioners have made Pucca construction over the allotted land without any authority.

7. Be that as it may considering the fact that the explanation/reply of the petitioners submitted in response to the earlier show-cause notice have not been considered till date before issuance of the impugned office orders, the matter is remitted to the Executive Officer, Nagar Parishad, Buxar to



consider the explanation/reply of the petitioners within a period of four weeks from the date of receipt/production of a copy of this order and after giving a proper opportunity of hearing to them pass a reasoned and speaking order considering the materials and the submissions made on behalf of the petitioners in their explanation/reply.

8. It is made clear that no coercive action shall be taken against the petitioners till the final order is passed by the Executive Officer, Nagar Parishad, Buxar and thus far the operation of impugned orders, as contained in Annexures- 1 and 2, shall also be kept in abeyance.

9. With the aforesaid observation and direction, the present writ application stands disposed of.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.08.2023
Transmission Date	NA

