

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18230 of 2022

=====

Jwala Prasad Jaiswal S/o- Ram Sevak Jaiswal, Resident of Village- Shivpuri
Pokharia P.S.- Begusarai Town, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Begusarai.
2. The District Magistrate Begusarai cum President Swarna Jyanti Zila Kendriya Pustkayala Samiti, Begusarai.
3. The District Education Officer cum Secretary Swarna Jyanti Zila Kendriya Pustkayala Samiti Begusarai.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Mritunjay Kumar, Advocate
For the Respondent/s	:	Mr.Madhaw Pd. Yadaw, GP-23
		Mr. Sanjay Kumar, AC to GP-23

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-02-2023

Heard learned counsel for the parties.

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

- (i) For issuance of an order/direction/writ including the writ in the nature of 'Mandamus' commanding the respondents to handover the possession of shop number 51 situated at Vikash Baazar, Begusarai constructed at land of Swarna Jyanti Zila Kendriya Pustkayala Samiti Begusarai and allotted to petitioner and subsequently taken back in the name of repairing without any reasoned order.
- (ii) For issuance of an order/direction/writ including the writ in the nature of 'Mandamus' commanding the respondents to complete the partly completed repair work of shop number 51 which is pending since November 2020.
- (iii) For issuance of an appropriate declaration holding that petitioner is entitled to remain in possession of shop number 51 till 31.03.2031 in the light of agreement dated 04.08.2020.
- (iv) For issuance of declaration that petitioner is



entitled for the compensation against the loss occurred to him due to arbitrary act of respondent since November 2020 till date.

(v) For any other relief(s) to which the petitioner may be found entitled of in the facts and circumstances of the present case.”

Learned counsel appearing for the parties pray that the present petition be disposed of in terms of order dated 09.01.2023 passed by a Coordinate Bench of this Court in CWJC No. 6312 of 2022, titled as **Md. Sabir Ansari & Ors. Vs. The State of Bihar & Ors.** and other analogous cases.

The order dated 09.01.2023 passed in CWJC No. 6312 of 2022, titled as **Md. Sabir Ansari & Ors. Vs. The State of Bihar & Ors.** and other analogous cases, is reproduced, in toto, as under:-

“ Heard the learned counsel for the parties.

All the writ petitions have been taken up together and are being disposed of by this common order.

Almost all the writ petitioners in these petitions had been running their shops in the public building constructed by the Zila Parishad of the District Saran. Many writ petitions and Public Interest litigation petitions were filed, some for removal of encroachment and some for vindication of their rights to retain their shops in the old building.

According to the affidavit of the Zila Parishad,



Saran, which has been pressed today, except for three of the writ petitioners in C.W.J.C. No. 6312 of 2022, all other writ petitioners in all the petitions have been granted shops in the new Zila Parishad building.

Mr. Jagarnath Singh, learned Advocate for some of the writ petitioners, has submitted that this grant of shops to them does not fully satisfy their grievance as they were allotted different shops than those which they had been operating from before.

Such submission is not tenable/acceptable for the reason that earlier occupation of the shops was without any valid document but only because of the permissive approach of the Zila Parishad.

Be that as it may, so no specific right accrues to any of the writ petitioners to have a shop of his choice and that also when, earlier, most of them were found to be encroachers in other proceedings.

Thus all the writ petitions are being disposed of as having become infructuous.

So far as the three writ petitioners in C.W.J.C. No. 6312 of 2022 are concerned, viz. Md. Shakil @ Md. Shakil Ansari, son of Motalib; Mehrun Nisha @ Mehru Nisha, Wife of Late Md. Bashir Miyan and Shailendra Singh @ Shailendra Kumar Singh, son of Late Jamuna Singh @ Yamuna Singh, their claim, it has been urged on behalf of the Zila Parishad, shall be considered favourably in the new building of the Zila Parishad which is about to be completed. There is no reason why the Zila Parishad will keep only three of them, out of so many, dissatisfied. There is a specific statement in the counter affidavit that all



shops in the building have been occupied and there is no vacant shop as on date.

Accepting the statement of the Zila Parishad, this Court disposes of the writ petition of the aforenoted three writ petitioners also in C.W.J.C. No. 6312 of 2022 by directing that in case the construction of the new building is completed and the shops are let out, they shall get preference over others.”

As jointly prayed for, the instant petition stands disposed of in terms of order dated 09.01.2023 passed in **Md. Sabir Ansari (supra)** and the directions contained therein shall also govern the instant case *mutatis mutandi*, to the extent possible.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Rajiv/-sujit

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

