

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.523 of 2024

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Ejazul Haque Son of Late Misbahul Haque Mahawat Toli, Ujjain Tola, P.S.-
Bettiah Town, District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secrerary, Panchayati Raj
Department, Government of Bihar, Patna,
2. The District Magistrate, District-West Champaran.
3. The Deputy Development Commissioner, District-West Champaran.
4. The Chief Executive Officer, Zila Parishad, Bettiah District-West
Champaran.
5. The Sub-Divisonal Officer, Bettiah District-West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Subodh Kumar Jha, Mr. Pranav Kumar Jha, Mr. Ashok Kumar Gupta, Advocates.
For the State	:	Mr. A.K. Dubey, AC to AAG-11
For Respondents No. 4 & 5		Mr. Bashishtha Narayan Mishra, Adv. Mr. Prince Kumar Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 12-08-2024 Heard Mr. Subodh Kumar Jha, learned counsel for the

petitioner, Mr. Prince Kumar Mishra representing the Zila

Parishad, West Champaran, Bettiah and Mr. A.K. Dubey,

learned AC to AAG-11.

2. The present writ petition has been preferred for the

following relief(s):-

*a. In the nature of certiorari for
quashing of the letter bearing Memo No.1008
dated 11.10.2023, issued under the signature of
Respondent No.3, the Deputy Development
Commissioner, West Champaran, by which
Respondent No.3 directed the petitioner to
vacate the Zila Parishad Shop No.129 within 7
days from the date of issuance of the said order*



b. In the nature of certiorari for quashing of the letter bearing letter bearing Memo No.1518, dated 29.11.2023, issued under the signature of Respondent No.3, the Deputy Development Commissioner, West Champaran, by which Respondent No.3 directed the petitioner to vacate the Zila Parishad Shop No.129 within 24hrs from the date of issuance of the said order.

c. For issuance of a writ in the nature of mandamus for directing and commanding the Respondents more particularly the Respondent No. 3 and 4 to allot the Zila Parishad Shop No.129 in favour of the petitioner forthwith, keeping in view of the facts that the petitioner is in continuation possession in the shop situated near D.D.C. Residence bearing Zila Parishad Shop No.129, Area 12' x 12'=144' after taking lease from Late Pramod Singh son of Anirudh Singh (original allottee) w.e.f. 11.4.1999 on the strength of lease agreement dated 11.4.99 in other words the petitioner is continuation possession of the shop in question since last 24 years, and earning his livelihood as there is no sources of income, except from shop in question and not only that the petitioner is paying the rent of the shop in question to the Zila Parishad, West Champaran from the date of taking over the possession of shop in question and till date.

d. For issuance of a writ in the nature of mandamus for directing and commanding the Respondents more particularly the Respondent No. 3 and 4 that till the final allotment of shop in question is not made in favour of the petitioner, the petitioner may be allowed to continue with said shop without any hindrance as the petitioner ready to undertakes to pay the rent of the Shop in question for the ends of justice and equity

e. Further for any other appropriate relief/reliefs for which petitioner is entitled in the facts and circumstances of the case.



3. The case of the petitioner is very short. Shop no. 129 was allotted to one Pramod Kumar Singh and through mutual agreement, as he was unable to continue, this petitioner stepped in and the claim is that he is continuing since 11.04.1999 i.e. for the last 25 years.

4. Earlier, the son of late Pramod Kumar Singh came before this Court in the case of **Kunwar Pratik Singh v. State of Bihar (CWJC No. 5121 of 2019)** in which on 23.06.2023, an order was passed directing the respondent nos. 3 and 4, the officials of Zila Parishad to take a decision.

5. This Court on that occasion had taken note of the fact that the shop is presently being run by one Md. Emamul Haque, (the petitioner Ejazul Haque was wrongly described in the said writ petition) and as such, he may also be heard before an order is passed.

6. The reasoned order of the respondent, Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Bettiah, District-West Champaran dated 25.09.2023 (Memo no. 988/25.09.2023) is on record by way of Annexure-3, according to which the claim of the son of late Pramod Kumar Singh was rejected on the ground that after his death, automatically it will be deemed to have been cancelled and



further directed the petitioner herein to vacate the shop in seven days.

7. Aggrieved, the present writ petition.

8. Learned counsel for the petitioner submits that uptill the year 2018, he was continuously paying the rent and it is not the case of the respondents that after death of Pramod Kumar Singh and despite knowledge him continuing on the shop, any step was taken and or allotment was cancelled. Their decision has come only after the son of Pramod Kumar Singh preferred writ petition and an order came to be passed by this Court. He being in the shop for the last 25 years, before allotting the shop through tender, he be heard sympathetically. Learned counsel next submits that he intends to submit his representation along with entire rent amount from the year 26.10.2018 till August, 2024.

9. Though learned counsel appearing for the respondents opposes the same submitting that once a decision has been taken, he is duty bound to vacate the shop, this Court wants the prayer of sympathetic consideration of the petitioner be given a re-look particularly when he is ready to pay the arrears uptill August, 2024 as:-

(i) it is an admitted fact that the rent was taken from



him uptill the year 2018,

(ii) after the son of Pramod Kumar Singh stepped in, though the Zila Parishad refused to receive any rent, the facts remain that he continued to have possession of the shop.

11. Taking into account the aforesaid facts as also that the petitioner is continuing for the last 25 years, he be given sympathetic consideration and an appropriate order be passed. Till a decision is taken by the respondents, the interim protection granted to him on 15.02.2024 by the Co-ordinate Bench to continue.

12. The petitioner to file his representation in next four weeks before the respondent, Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Bettiah, District-West Champaran along with the entire amount of rent upto August, 2024 by way of bank draft addressed to the Zila Parishad, Bettiah. In absence of that, his representation is fit to be rejected.

13. If the aforesaid representation along with proper demand draft is presented, the concerned authority shall take up the matter and after hearing him and perusing the facts as also making inquiry from the office regarding his continuous possession for 25 years will pass a reasoned order in next three



months.

14. The writ petition stands disposed of with the
aforesaid observation.

(Rajiv Roy, J)

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