

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2085 of 2014

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Dr. Parmeshwar Pandey Son Of Late Ram Dayal Pandey Presently Residing
At M.I.G. House No. 275, P.S.- Kankarbagh, Lohia Nagar, Patna

... .. Petitioner/s

Versus

1. The Bihar State Housing Borad
2. The Managing Director, Bihar State Housing Board, Patna
3. The Estate Officer, Bihar State Housing Board, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shrinandan Pd. Singh, Sr. Advocate Mr. Gaurav Kumar, Advocate Mr. Kumar Saurav, Advocate Mr. Mukund Kumar, Advocate
For the Housing Board	:	Ms. Binita Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 03-04-2025

Heard Mr. Shrinandan Pd. Singh, learned senior counsel appearing on behalf of the petitioner and Ms. Binita Singh, learned counsel appearing on behalf of the Housing Board.

2. The present writ application has been filed for quashing the order dated 01.11.2013 (Annexure-8) passed by the Managing Director, Bihar State Housing Board (herein referred to as Board), Patna (Respondent No. 2) by which Respondent No. 2 has cancelled the allotment letter of the house, M.I.G. No. 275, Area of the plot 2800 Sq. Feet situated in Mohalla, At & P.O. Lohia Nagar, P.S. Kankarbagh, District-Patna, which was allotted to the petitioner.



3. Learned counsel for the petitioner submits that the aforesaid letter has been received in contrary to the registered agreement dated 26.08.1981 and the registered lease deed dated 12.04.2012.

4. Pursuant to an advertisement issued by the Board for the allotment of land/house in the year 1972, the petitioner has filed an application for allotment and the petitioner had deposited a sum of Rs.50/- for the same in the year 1972. On 27th November, 1980, House No. 275 was given to the petitioner on a monthly rent of Rs.375/- by Letter No. 8214 dated 27.11.1980 (Annexure-1). The aforesaid house was given to the petitioner for residential purpose only. The petitioner and 17 other persons have been given M.I.G. houses situated in Lohia Nagar on hire purchase basis and the Board in its 60th Meeting dated 15th July, 1981 had taken a decision for the aforesaid followed by the letter of allotment contained in Letter No. 6232 dated 19th August, 1981 and the house was allotted to the petitioner on a hire purchase basis for a total consideration amount of Rs.84,117/- (Eighty Four Thousand One Hundred and Seventeen) only. Out of the said amount, the petitioner was directed to pay 1/4th of the total amount + documentation charge of Rs.150/- and the rest of the amount was to be paid in



equal monthly instalments in 180 months (Annexure-3).

5. Learned counsel for the petitioner submits that after the allotment, a registered agreement of lease was executed by the Board in favour of the petitioner on 26th August, 1981 (Annexure-4). The aforesaid house in question was given to the petitioner and he started paying monthly instalments. On payment of entire consideration amount, a registered lease was finally executed by the Board in favour of the petitioner on 12th April, 2012.

6. Learned counsel for the petitioner submits that suddenly the petitioner has received a Letter No. 4247 dated 27th May, 2013 by which the petitioner was asked by the Estate Officer of the Board (Respondent No.3) to show cause as to why the lease in favour of the petitioner should not be cancelled because he was found to be son-in-law of the then Chairman of the Housing Board, Late Shambhu Sharan Thakur. Accordingly, the petitioner submitted his show cause on 6th June, 2013 to the Respondent No. 3.

7. Learned counsel for the petitioner submits that on the date the house was allotted to 18 persons including the petitioner and they were occupying their respective houses on monthly rent basis and this decision was taken by the Board



itself vide letter dated 15th July, 1981 (Annexure-2). In fact the petitioner was married with the daughter of late Shambhu Sharan Thakur on 9th February, 1981 whereas the house in question was given to the petitioner on monthly rent basis by the Board on 27th November, 1980. On that date, the petitioner was not married with the daughter of Late Shambhu Sharan Thakur. In fact, the house in question allotted to the petitioner was not a special form, rather in regular course of business, the house was allotted to the petitioner and 17 other persons. And therefore, on perusal of the impugned order, it transpire that allotment of the house in question has been cancelled by the Board according to Clause 15 E of the Lease Deed and Clause 19 E of the Agreement. From bare perusal of the aforesaid clause, it transpire that petitioner has not concealed anything from the Board on the date of allotment of the house in question on a monthly lease i.e. 27th November, 1980 or on the date of registered agreement i.e. 26th August, 1981 or on the date of final execution of registered deed on 12th April, 2012. From perusal of the impugned order, it appears that the Board has not considered the reply to the show cause and the impugned order has been passed only on the ground that his late father-in-law was the Chairman of the Board, but it has not been mentioned in



the impugned order that the petitioner has violated any terms and condition of the lease agreement.

8. Learned counsel for the Board has not controverted the averments made in the writ petition and submits that due to institution of the Vigilance Case No. 27 of 1996, in which Vigilance Bureau has also found the allotment of House No. 275, Lohia Nagar, Patna was irregular and apart from that as per provision laid down in Clause 19(a) of Agreement and Clause 15 E of the lease deed of the writ petitioner, the Board asked for a show cause from the petitioner and after considering the show cause reply filed on behalf of the petitioner, report has been found unsatisfactory and finally the Board after seeking opinion/advice on the said issue from the senior lawyer of the Board, issued the impugned order in accordance with law.

9. Considering the aforesaid facts, it transpires that vide Annexure-2 of the writ petition, the petitioner along with 17 other persons have been allotted houses by the Board in the M.I.G. situated at Lohia Nagar, Kankarbagh and the Board has only cancelled the allotment of the petitioner on the sole ground that the house in question of the petitioner is subject matter of the vigilance enquiry bearing Vigilance Case No. 27 of 1996.

10. Learned counsel for the petitioner submits that till



date the Vigilance Case is not in progress. Apart from that no one has convicted till date in the aforesaid Vigilance case and it appears from the Annexure-2 of the writ petition that out of 18 persons, the Board has not questioned the transaction of the aforesaid house in question except the petitioner.

11. Having heard learned counsel for the parties and perused the materials available on the record, it transpire that the Board has issued the impugned order dated 1st November, 2013 contrary to the decision of the Board as well as the terms and conditions of the Board and the allotment of the house in question of the petitioner has been cancelled merely on the ground that the petitioner was found to be son-in-law of the then Chairman of the Housing Board, late Shambhu Sharan Thakur and it transpire from the aforesaid that initially the petitioner had filed an application for allotment of house in question. The petitioner had deposited a sum of Rs.50/- for the same in the year 1972 and accordingly in the year 1981, the Board has taken a decision in its 60th Meeting that the Board has allotted the M.I.G. House situated in Lohia Nagar, 18 in number on hire purchase basis including the petitioner followed by the registered agreement which was put in favour of the petitioner by the Board and without cancellation of the registered



agreement which was in favour of the petitioner, the Board has cancelled the allotment which is not sustainable in the eye of law.

12. Accordingly, the order dated 01.11.2013 (Annexure-8) is hereby set aside and this writ application stands allowed.

(Rajesh Kumar Verma, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.04.2025
Transmission Date	N/A

