

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7710 of 2025

Md. Shafiullah Son of Late Abdurrahman, Resident of Mohalla- Islampur,
Ward No. 8, P.O. and P.S.- Raxaul, District- East Champaran (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, East Champaran.
2. The Executive Officer, Nagar Parishad Raxaul, P.O. and P.S. Raxaul, District East Champaran.
3. The Chairman, Nagar Parishad Raxaul, P.O. and P.S- Raxaul, District- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Shahnawaz Ali
For the Respondent/s : Mr. Standing Counsel (10)

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

2 09-07-2025 Heard learned counsel for the petitioner and learned
counsel for the respondent-State.

2. In the present writ application, the petitioner has
prayed for the grant of following reliefs:

*(i) A writ, order and direction in
the nature of mandamus for a direction to
the respondent authorities especially the
executive officer, Nagar Parishad, Raxaul to
allot the shop of Nagar Parishad, Raxaul
District East Champaran to the petitioner.*

*(ii) A writ, order and direction in
the nature of mandamus for a direction to
the respondent authorities especially the
executive officer, Nagar Parishad, Raxaul
either to allot the shop of Nagar Parishad,
Raxaul District East Champaran to the*



petitioner or to refund the amount Rs. 10,000/- and Rs. 16,000/-(Total Rs. 26,000/-) with 12% interest to the petitioner which was deposited on 14.06.96 vide M/R no. 27 dated 14.06.96 and M/R No 37 dated 02.07.96, be issued.

(iii) Any other relief as the petitioner is entitled to.

3. From the aforesaid reliefs claimed for by the learned counsel for the petitioner, it is clear that the petitioner has prayed for a direction to be issued to the respondent-authorities especially the Executive Officer, Nagar Parishad, Raxaul to either allot the shop of Nagar Parishad, Raxaul to the petitioner or to refund the amount with 12% interest to the petitioner, which as per the petitioner, was deposited on 14.06.1996.

4. So far as the prayer for refund of amount is concerned, the petitioner for the same relief had earlier filed a writ application bearing CWJC No. 22726 of 2013 which was dismissed vide order dated 10.01.2018 by this Court. When the prayer for refund had already been dismissed by this Court earlier, then the petitioner should not have made the same prayer in the present writ application. Learned counsel for the petitioner accepts that the petitioner has made a mistake by



making the same prayer in this writ application, which was already considered and dismissed in the earlier writ application i.e. CWJC No. 22726 of 2013. So far as the prayer for allotment of shop is concerned, a specific query made to learned counsel for the petitioner as to whether the said prayer could have been made in the earlier writ application i.e. CWJC No. 22726 of 2013 or not. The learned counsel for the petitioner submitted that yes this relief could have been claimed in the earlier writ application also but the petitioner did not do so and, therefore, the petitioner is praying for the said relief in the present writ application.

5. Based on the principle of constructive *res judicata*, the petitioner is prohibited from claiming the relief of allotment of shop because the said prayer/relief could have been made in the earlier writ application i.e. CWJC No. 22726 of 2013 itself. Having not prayed for the said relief in the earlier writ application, the petitioner now cannot claim the said relief in the present writ application.

6. For the reasons given above, the present writ application is dismissed.

(Alok Kumar Sinha, J)

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