

(2021) 07 PAT CK 0045

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 6362 Of 2020

Arvind Kumar

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 13-07-2021

Acts Referred:

Citation : (2021) 07 PAT CK 0045

Hon'ble Judges : Mohit Kumar Shah, J

Bench : Single Bench

Advocate : Rakesh Kumar Soni, Prerna Anand, Ankit Katriar

Final Decision : Disposed Of

Judgement

1. The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of

COVID 19 Pandemic, requiring social distancing.

2. Heard Sri. Rakesh Kr. Soni, the learned counsel for the petitioner, the learned counsel for the respondent Nagar Parishad, Sri. Ankit Katriar,

Advocate and the learned counsel for the State Ms. Prerna Anand (AC to GP 18).

3. The present writ petition has been filed seeking the following reliefs :-

â??(i) For quashing the order dated 27.02.2020 contained in Memo no. 349 passed by the Executive Officer, Nagar Parishad, Hajipur

(respondent no. 4), whereby the petitioner has been allotted/ granted refunds of Rs. 25000/-only against his claims of Rs. 8.5 lacs as

compensation caused after declaration of large area of his settled Sairat gudri Bazar as no vending Zone vide memo no. 2614 dated

16.12.2019 padded by the respondent no. 4.

(ii) For further directing the respondent to refund him 8.5 lacs out of total deposited 1377800 for settlement of Sairat of Gudri Bazar as

compensation to loss caused to the petitioner after declaration of large area of Settled Sairat as no vending Zone.

(iii) For directing the respondents to extend the settlement of the petitioner for the year 2019-20 for further 3 months in order to compensate

the loss caused to the petition in failure of payments. â??

4. The brief facts of the case are that the Nagar Parishad, Hazipur had floated a notice dated 30.08.2019 for settlement of Sairat stands within its

jurisdiction for the year 2019-20. The petitioner had also participated in the said bid held on 14.09.2019 and had stood successful, whereafter

settlement was made in his favour vide letter dated 14.09.2019 for the period 16.09.2019 to 31.03.2020 under the signature of Executive Officer,

Nagar Parishad, Hajipur for the area Anwarpur to Yadav Chowk to Ramprasad Chowk to Marai to Chauhatta Chowk to Bazar Samiti to Sukhdeo

Mukhlal College to Chaulta to Masjid Chowk to southwards and further Anwarpur to Dakbunglow Chowk to Gandhi Chowk to Buddhamurti Chowk

to Ganda Bridge Road to Nakhas to Maszid Chowk.

5. It is the case of the petitioner that the petitioner started collecting taxes from the vendors of the area, settled in his favour, w.e.f. 16.09.2019,

however suddenly vide memo dated 02.12.2019, the settlement of the petitioner was cancelled. The learned counsel for the petitioner has submitted

that first of all, no show cause notice was issued to the petitioner prior to cancellation of the settlement and secondly, even if the settlement has been

cancelled, the petitioner is entitled to refund of the settlement amount deposited by him by way of security deposit for the period 02.12.2019 to

31.03.2020.

6. The learned counsel for the respondent-Nagar Parishad, Sri Ankit Katriar, Advocate has submitted that it is wrong to say that the entire area

settled in favour of the petitioner has been cancelled, whereas the fact is that only a part of the said area has been cancelled and that too, for the

remaining period i.e from 02.12.2019 to 31.03.2020. It is further submitted that due to various traffic restrictions on account of congestion in the area,

a part of the area settled in favour of the petitioner, has been cancelled. Nonetheless, the learned counsel for the respondent-Nagar Parishad submits

that the amount of refund required to be made out of the settlement amount, deposited by the petitioner, pertaining to the balance period of settlement

vis-a-vis that part of the area settled in favour of the petitioner which has been cancelled, can be objectively calculated, provided the petitioner

furnishes the relevant facts and figures along with evidence in support thereof, whereafter endeavors would be made to recalculate and refund the

proportionate settlement amount for the period 02.12.2019 to 31.03.2020.

7. I have heard the learned counsel for the parties and gone through the materials on record, from which it is clear that the petitioner is not seeking

annulment of the order cancelling the settlement made in favor of the petitioner, however what the petitioner is seeking is refund of the settlement

amount for the period during which, he was not able to collect taxes/ levies from the vendors on account of cancellation of the settlement made in his

favor vide order dated 02.12.2019 (Annexure-3 to the writ petition). This Court finds that it will have to be objectively ascertained as to what was the

total area of settlement made in favor of the petitioner, what is the remainder area left, after cancellation, for the petitioner to collect the levy/ taxes

and accordingly, the amount of settlement/deposit, required to be refunded for the residual period i.e from 02.12.2019 to 31.3.2020 will have to be re-

calculated, inasmuch as the impugned order dated 27.02.2020, refunding a meager sum of Rs. 25,000/- is bereft of any detail and sans objectivity. In

such view of the matter, the order dated 27.02.2020, passed by the Executive Officer, Nagar Parishad, Hazipur is quashed and the matter is remanded

back to the Executive Officer, Nagar Parishad, Hazipur for re-consideration and making objective calculation of the amount of settlement/deposit,

required to be refunded to the petitioner, pertaining to the residual period during which the settlement made in favor of the petitioner has stood

cancelled i.e from 02.12.2019 to 31.03.2020. It is needless to state that any order/ resolution of the respondent- Nagar Parishad, Hazipur relating to

refund of the settlement amount to the petitioner, detrimental to the interest of the petitioner would consequently stand annulled.

8. In order to expedite the matter, this Court grants liberty to the petitioner to approach the Executive Officer, Nagar Parishad, Hazipur by filing

appropriate petition for refund of the settlement amount in question within a period of four weeks from today, whereupon the Executive Officer,

Nagar Parishad, Hazipur shall consider the matter objectively and pass a reasoned and a speaking order within a period of six weeks, thereafter. It is further directed that in case, any additional amount is found refundable to the petitioner, the same shall be paid within a further period of six weeks therefrom.

9. The writ petition stands disposed of on the aforesaid terms.