
(1997) 01 PAT CK 0043
In the Patna High Court
Case No : C.W.J.C. No. 13412 of 1992

Patna Citizen Forum

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 10-01-1997

Acts Referred:

Citation : (1997) 1 BLJR 811 : (1997) 1 PLJR 609

Hon'ble Judges : N.K. Sinha, J;B.P. Singh, J

Bench : Division Bench

Judgement

B.P. Singh and N.K. Sinha, JJ.—This matter is being heard for a considerably long time and we had given every opportunity to the Government correct itself, so that there is no necessity for us to say anything which may do credit to the Government. We are at our wit's end and it seems rather than correcting itself the Government has taken advantage of the pendency of this writ petition to queer the pitch for us. We have not decided to grant no ore indulgence and proceed strictly in accordance with law.

2. A few facts have become quite obvious. As recorded in our order dated 23-1994 the rules for allotment of Government Quarters were being blatantly related. We had directed the Advocate General to place before us all relevant material to satisfy us that the allotments made between the year 1990 id 1994 were made in accordance with the rules. We had directed him to produce the reasons recorded for such allotment. We had also required him to tasty us that if any allotment was made without reference to the Allotment committee under the rules between May, 1987 and August, 1994, that was done assistant with the rules. It later transpired that the Allotment Committee under the rules was non-functional for almost four years and obviously, therefore, allotments were being made without reference to such a Committee, e were informed that the Hon''ble Chief Minister had passed an order on the October, 1994 to the effect that any allotment made contrary to the rules all be cancelled. This is found recorded in our order dated 31-10-1994. By the same order we constituted an Allotment

Committee consisting of the Chief Secretary, Government of Bihar, Commissioner, Building Construction Department and the Director General of Police, Government of Bihar. This became necessary because the Committee under the rules had become defunct and had not functioned for almost four years. We directed the said Committee to perform the duties of the Allotment Committee under the rules and we directed them to act strictly in accordance with the rules. They were also entrusted with the task of evicting illegal occupants and illegal allottees by issuance of notices and by taking proceedings etc. It is not necessary for us to detail the large scale illegal allotments made during the period. Large number of politicians who had at one time held some office or were members of the Assembly or Council continued to occupy the premises even after they ceased to hold office. Large number of premises were in occupation of politicians who held no office ostensibly and in whose favour there was no letter of allotment. The manner in which the Government premises were being occupied by all and sundry made the situation chaotic. Large number of occupants were those who had no allotment orders in their favour and many others were those who had no allotment order from the Committee under the rules, but had managed to obtain some order from some authority. On that strength they continued to occupy Government premises, whether entitled or not. On the other hand, there were large number of others who, though entitled to allotment of Government accommodations, were cooling their heels by the road side since their applications for allotment of Government premises received no consideration in the hands of the Government.

3. There is what is known as "Central Pool" consisting of large number of residential units meant for allotment to categories of persons specified in the rules. There is also a separate pool for the members of the Legislative Assembly and Legislative Council. We found that large number of members of the Assembly and Council, present and past, were in occupation of houses in the Central Pool. Happily many have been evicted. We are still left with above 101 members of the Assembly and Council, who are occupying the houses in the Central Pool. The original figure furnished to us by the Government was that 297 houses were placed in the Legislative Assembly Pool and 73 in the Legislative Council Pool. The approach of the Government seems to be that there is acute shortage of residential accommodation for the members of the Assembly and Council. We do not dispute the fact that members of the Assembly and Council are to be provided with accommodation, it is the responsibility of the Government to provide them such accommodation, but in the matter of allotment of residential units the Government cannot act arbitrarily or contrary to the rules. As we were originally told, 370 residential units were available for allotment to members of the Assembly and Council who together numbered 421, with many of them becoming entitled to allotment of Government premises in the Central Pool by reason of their holding office in Minister, Minister of State, Deputy Minister, Leader of Opposition, Chief Whip as also the Speaker, Deputy Speaker, Chairman and Deputy Chairmen of the Council etc. and 370 residential units would have,

perhaps, met the say reduced requirement in those pools. It is indeed surprising that the stand of the State is that the single room units in the M.L.A. Hostel were insufficient for the members and, therefore, two units were amalgamated to make one unit. We do not for a moment dispute that the Government is not justified in giving better facilities to the members of the Assembly and the Council, but when it is its case that it is running short of accommodation, we fail to understand the justification for reducing the number of residential units by amalgamating two units into one, with the result that the number has been reduced by 49 on account of such amalgamation, as is evident from the affidavit filed on 17-10-1996. We may also notice that large number of Chairman, Vice-Chairman, etc. of the Government Companies, Corporations and Organisations, in whose favour allotment was expressly prohibited by the rules were allotted residential premises in the Central Pool and many of them were ultimately compelled to vacate the same. Even now it appears three of them are still in possession of such premises and the Government has not been able to get those premises vacated on the plea that eviction proceeding under the rules has not been Appellate authority and the matters are pending before the appellate authority. It is, therefore, not known when the appeals will be disposed of. The Government could have no difficulty in nominating any other officer as the appellate authority, but for reasons best known to it, it has chosen not to do so.

4. While this matter was being heard the Government purported to transfer large number of houses in the Central Pool to the Legislature Pool which we stayed by order dated 8-11-1995 after the same was brought to our notice. On the request of the Government and on the undertaking given that the Committee under the rules will make allotment and take all necessary actions strictly in accordance with the rules, we restored the powers under the rules to the Allotment Committee constituted under the rules. The Committee has since been functioning, but we are sorry to note that the desired result has not been achieved. We had directed the committee to issue show cause notices to the persons concerned who had been allotted houses in the Central Pool to which they were not entitled under the rules. It appears that 101 such notices have been issued to the members of Assembly and Council, They were required to file their show cause and show cause filed by some of them are before us and we have, therefore, to consider their show cause and pass appropriate orders as to the validity of the allotment made in their favour. We, however require further particulars before we can decide this matter and we, therefore, direct the Government to place before us the following particulars :

- (1) The number of Assembly and Council members who have not been allotted residential accommodation at all.
- (2) The number of members of Assembly and Council who are in occupation of more than one Government premises.
- (3) The number of members of Assembly and Council, who are in occupation of Central Pool premises and the date with effect from which they are in occupation.

(4) The number of houses in the pool of Assembly and Council which are in occupation of persons other than members of the Assembly and Council.

(5) The number of vacant premises, which have not been allotted to any person under the rules.

(6) The number of members of Assembly and Council, who by reason of offices held by them are entitled to and have been allotted quarters in the Central Pool.

5. An intervention application has been filed before us today by one Sri Krishna Ballava Prasad, who is also a member of the Legislative Assembly in which he has highlighted the acts of omission and commission committed by the authority in the matter of allotment of Government quarters. His grievance is that while many others are occupying more than one premises, some of the members of the Assembly have not been allotted even one residential unit. He claims to be one of such victims. It was stated by counsel appearing on behalf of the Speaker of the Assembly that the said intervenor has been allotted 109, M.L.A. Flat, but according to the intervenor, the said Flat is in illegal occupation of one Sri Kamal Paswan. Counsel for the intervenor States that the aforesaid Sri Paswan is in possession of 14-Birchand Patel Path, 39-M.L.A. Flat as well as 109-M.L.A. Flat. We have yet to verify the correctness of the statement and the counsel for the State will inform this Court whether in fact the aforesaid Mr. Kamal Paswan is in possession of these three premises and if so under what authority.

6. Counsel for the intervenor further submits that the authorities have acted in rather arbitrary manner in not attending to the applications filed by members of the Assembly, while many others, who have not even applied for allotment of quarters have been so allotted and he states that Sri Munsai Lai Rai, M.L.A. has been allotted Qr. No. 30, Bailey Road, Sri Raj Balab Pd. has been allotted Qr. No. 6, Museum Road and Sri Ramautar, M.L.A. has been allotted Qr. No. 7, Birchand Patel Marg. He further states that Sri Anirudh Pd. alias Sadhu Yadav, M.L.C. has been allotted Qr. No. 19-M, Strand Road, Patna, which is a ministerial bungalow in the Central Pool. He further states that one Mr. Anwar Ahmad, who is not a member of the Assembly or Council, is occupying 6-Back Harding Road, Patna. These are some of the instances which have been brought to the notice of the Court. The State must file its counter-affidavit replying to these allegations.

7. During the period that the Committee has not functioned, we would like to know as to who was the person or who were the persons who made allotment in favour of allottees. The necessary filed may be produced before this Court to avoid any further controversy because allotments have been made by an authority not competent to make allotment. The matter requires serious consideration. This applies to the period from May, 1987 to August, 1994. If we find that any person has made illegal allotment without authority during this period, we may have to issue notice to such person and afford him an opportunity of representing his case before us.

8. Let this matter come up on 17th January, 1997.

9. Let a copy of this order be handed over to Mr. Jagganath Jha, G.P. 2.