
(2021) 01 PAT CK 0133

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 7186 Of 2020

Ranu Das And Ors

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 07-01-2021

Acts Referred:

Citation : (2021) 01 PAT CK 0133

Hon'ble Judges : Ashutosh Kumar, J

Bench : Single Bench

Advocate : Abhinav Srivastava, Sarvesh Kumar Singh

Final Decision : Disposed Of

Judgement

Heard Mr. Abhinav Srivastava, learned counsel for the petitioners and Mr. Sarvesh Kumar Singh, learned AAG-13 for the State.

The present petition has been filed against the office order dated 23.06.2020 contained in Memo No. 673 passed by the Administrator, Bihar State

Agriculture Marketing Board (Dissolved), Patna under the Agriculture Department of the State of Bihar by which the allotment made in their favour

of the spaces/buildings in the campus of the Agriculture Marketing Board (Dissolved), Gulab Bagh in the district of Purnea has been cancelled and the petitioners have been asked to vacate the premises with immediate effect.

It was urged on behalf of the petitioners that without any reason and without communicating such reasons to the petitioners, the order of allotment and the agreement with the petitioners had been rescinded.

A counter affidavit was filed on behalf of the State in which it has been stated that after coming into the force of the Repeal Act, 2006, the Bihar

State Agriculture Marketing Board, stood dissolved and the assets and liabilities

vested in the State Government in the Department of Agriculture. An Administrator of the Board was appointed.

On an application made by one Mukesh Jaisawal before the Sub-Divisional Officer-cum-Special Officer, Purnea on 26.12.2019, requesting the

building in question to be permitted to be repaired by him and to be used after giving fair rent to be fixed by the authorities, the request was allowed

and all such applicants who had requested for allotment of Employees Quarters, Guard Rooms, Guest Houses, Check Posts and other buildings in the

campus of the Agriculture Board of Purnea were let out. Before doing that, by virtue of an agreement, the allottees were directed to undertake the

work of repair and maintenance and also to pay fair rent which would be fixed by the authorities. This was on the asking of the applicants including

the petitioners. The decision to let out the buildings had the approval of the Secretary of the Agriculture Department, Government of Bihar.

The petitioners claim that by virtue of the agreement with them, they paid the rent fixed for the premises and also invested reasonable amount of

money in the repairs as the buildings allotted to them were not in habitable condition.

Thereafter, the Secretary of the Agriculture Department, on review of the records and the file, found that the resolution of the Government contained

in Memo No. 566 dated 23.12.2016 delineating the process and the method by which the buildings could be let out to persons in general, had not been

followed but had been breached completely. According to Clause 4(I) and 5(V) of the aforesaid resolution, it was incumbent upon the Special Officer

to allot the buildings only by way of public auction and notice of such auction was required to be published in two local dailies having circulation in the

area. Since the aforesaid conditions were not fulfilled, the Secretary, Department of Agriculture, on review of the relevant files, found it appropriate to

cancel the agreement with the allottees including the petitioners.

Mr. Srivastava, learned Advocate for the petitioners contends that when the allotment was made to them and an agreement was entered into, it was

with the approval of the departmental Secretary and the petitioners had no role to play except for making a request by way of an application which

was accepted by the Administrator. Even if the rules were bypassed, the petitioners at least were required to be noticed, explaining the reasons why

even after payment of the rental fixed by the authorities, the agreement was being cancelled midway. The petitioners also lamented that without giving any prior notice, a decision to ask the allottees to vacate the premises was taken and some of them were also dispossessed in haste.

It was under these circumstances that the petitioners had approached this Court.

An Interlocutory Application was filed on behalf of the State stating the aforesaid facts and praying for vacating the order of stay which was passed

by this Court on 31.08.2020.

This Court, after going through the records, finds that the resolution of the Government dated 23.12.2016 is in place and while the allotment to the petitioners and others were made, there was a complete departure from the principles which have been laid down in the resolution.

Though the petitioners are not to be blamed for such allotment but it has been argued that they ought to be recompensed for the investments that they have made in the respective buildings.

After hearing the parties, this Court asked the learned AAG-13 to take instructions from the concerned authority whether the petitioners/allottees who

have not yet been dispossessed could be allowed to remain in the premises till the auction process is finalized and whether the rental which has been

exacted from them would be returned. He was also asked to take instructions with respect to the feasibility of quantifying the investments made by

the petitioners/allottees so that the same could be directed to be returned to them as also whether the petitioners would be permitted to participate in

the fresh auction process without any prejudice to their cause.

While asking for such clarification, the Court was prima facie convinced that the allotment was in breach of the resolution of the Government and

therefore the same could not be allowed to be perpetuated. However, since the allottees/petitioners were not at fault, they are definitely required to be

compensated for the investments that they had made in the demised premises.

In response to the aforesaid observation of the Court, it was contended on behalf of the State that since none of the petitioners were in possession of

any one of the allotted premises, the request for their being allowed to remain in the premises till the time the auction process is finalized, was not

required to be considered. The rent exacted from them would also not be possible to be returned but the process of returning the security deposits has

begun.

This Court was informed that constitution of a Technical Committee was in contemplation for quantifying the investments made by the petitioners in

those premises for the purposes of returning the quantified amounts to them. The State has also indicated that the petitioners would be permitted to

participate in the fresh auction process along with the other contenders.

The request of the petitioners for allowing them to remain in the premises till the time the auction process is finalized, was not accepted by the State

on the ground that if allotment itself was illegal, the petitioners could not be permitted to take advantage of illegal allotment even though they were not at fault.

Under the aforesaid circumstances, as observed earlier, this Court is the view that the decision of the Government to recall / rescind the order of

allotment cannot be faulted with except for there being no notice to the petitioners before such a decision was taken.

The decision of the government therefore cannot be interfered with.

However, it is directed that the petitioners shall be permitted to take away their belongings from the allotted premises. They shall be returned their

security deposits and the process of quantification of the investments made by them be completed within a period of three months or before the

auction process is finalized, whichever is earlier and return the amount so quantified to the allottees / petitioners.

Needless to state that the petitioners shall be permitted to participate in the fresh auction process, if they so desire.

With the aforesaid observation / direction, this petition stands disposed off.