
(2025) 04 JH CK 1278
In the Jharkhand High Court
Case No : W.P.(C) No. 3723 Of 2023

Surya Nandan Pandey

APPELLANT

Vs

State Of Jharkhand through the Principal Secretary

RESPONDENT

Date of Decision : 04-04-2025

Acts Referred:

Citation : (2025) 04 JH CK 1278

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Abhay Prakash, Sachin Kumar

Final Decision : Allowed

Judgement

Deepak Roshan, J

The instant writ application has been preferred by the petitioner praying for following reliefs:-

a. Issuance of appropriate writ/writ(s), order/orders, direction/directions particularly in a nature of certiorari for quashing the office order dated 22.02.2023 (Annexure-13 to writ petition) passed by respondent no. 2, as the same is arbitrary, illegal and based upon unfounded facts and ignoring Resolution no. 1817 dated 17.03.2017 issued by the Urban Development and Housing Department, Government of Jharkhand read with minutes of meeting dated 13.07.2018 held under the Chairmanship of Chief Minister, Jharkhand as issued vide memo no. 2018 dated 05.09.2018.

b. Upon quashing of the same, for issuance of appropriate writ/ writs, order/orders, direction/directions particularly in a nature of Mandamus commanding upon the respondents particularly respondent no. 3 to provide all due opportunity of hearing to the petitioner as was directed vide order dated 07.10.2020 passed in WPC no. 2750/2020 by this Hon'ble Court and reconsider the claim of the petitioner to allot house no. EWS-2, which is/was occupied by the petitioner for

last 13 years.

And

c. During the pendency of this writ application Your Lordships, may further be pleased to stay the office order dated 22.02.2023 passed by the respondent no. 2, whereby a direction was issued to vacate the house within 15 days from receipt of the order failing which the eviction proceeding was said to be initiated and upon such action it was directed that the petitioner shall be liable to pay the cost.

2. The brief facts of the case as it appears from the pleadings is that the petitioner was a 4th grade employee serving in the Animal Husbandry Department, Government of Jharkhand and based on oral instruction he was residing in House no. EWS-2 situated in Harmu Housing Colony. Thereafter, on 17.03.2017, a resolution was issued by the Government of Jharkhand to regularise the illegal occupants on satisfying certain conditions. The petitioner submitted his application within stipulated time and with all requisite documents. Thereafter, another meeting was held on 13.07.2018 where decision was taken that if five families living nearby the house of applicant write in his/her favour that would be sufficient document. The petitioner submitted the letters of five families on 20.02.2020; subsequently the respondent authorities published an advertisement inviting applications for allotting the house on lottery basis. The petitioner being aggrieved by the aforesaid advertisement filed a writ application before this court which was disposed by asking the petitioner to file representation before the concerned respondent. The petitioner, accordingly, filed the representation which was rejected by the impugned order dated 22.02.2023 stating that the petitioner did not file the application within stipulated time and could not prove that he was residing in House EWS-2.

3. Learned counsel for the petitioner submits that a survey was conducted by the officials of the Housing Board and the name of the petitioner was also taken for consideration. However, when the petitioner on enquiry tried as to whether his name is there in said list, he found that his name was not mentioned in the list. He immediately in terms of aforesaid Government Resolution no. 1817 represented vide his application dated 29.08.2017 before the Managing Director, Jharkhand State Housing Board, Harmu enclosing his Aadhar Card, Voter ID and certificate of the local Ward Parsad stating that the petitioner is residing on the said house for last 11 years.

The petitioner after obtaining the written letters from five families submitted an application to the Housing Board on 20.02.2020, in terms of meeting held on 13.07.2018.

Learned counsel further states that his name was also recommended by the local MLA and accordingly he again vide his application dated 12.09.2017 requested the Managing Director, Jharkhand State Housing Board, Harmu Ranchi to allocate the House no. EWS-2 in his name.

4. Learned counsel for the respondents submits that the petitioner wants to avail advantage of that notification dated 17.03.2017 which contains certain terms and condition. It is submitted that the sub-clause 3.9 of clause 3 of the terms and conditions has not been complied by the petitioner. In fact, the petitioner never applied in accordance with the notification which has to be filed within Six months from date of notification (clause -5 of the terms and conditions may be referred to in this regard). Moreover, the scheme of regularization of 2017 was a one-time scheme valid only for a period of six months. The petitioner never applied under the said scheme nor took this plea before the competent authority or the appellate authority either and for the first time this stand has been taken by the appellant before this Court.

The claim of the writ petitioner for allotment of EWS house no E-2 situated at Harmu Housing Colony, Ranchi on the basis of illegal occupation is not applicable as the petitioner failed to prove eligibility in terms of the said notification and applied only after lapse of the period specified in the said notification. Therefore, the petitioner cannot be allowed on the basis of illegal occupancy of the said EWS House.

5. Having heard learned counsel for the parties and after going through the respective affidavits, it appears that the petitioner was seeking allotment of EWS House no. E-2 wherein he had been residing for a period of 13 years before vacating the same for repairs. Further, by Resolution no. 1817 dated 17.03.2017, the Urban Development and Housing Department, Government of Jharkhand sought to regularize the unauthorized occupant for one-time payment with condition that the occupant should have been dwelling in the house for 10 years and it stipulated that the decision regarding regularization should be completed within 6 months.

It appears from Annexure 2 & 3 of the writ application that the petitioner submitted first application on 29.08.2017 along with all the requisite documents and second application on 12.09.2017. Thereafter, on 13.07.2018 a meeting was held under the Chairmanship of the then Chief Minister wherein a decision was taken that if a person is not able to submit application due to non-availability of requisite documents, then if five families of nearby houses write in his/her favour that would suffice for the purpose of documents. The petitioner after obtaining written letters from five families submitted an application to Housing Board on 20.02.2020 which was not decided by the respondent authorities.

Subsequently the Housing board published an Advertisement dated 04.09.2020 inviting applications for allotment of houses/flats on lottery basis. Thereafter, the petitioner filed a writ application before this Court being WP(C) No. 2750/2020 which was disposed vide order dated 07.10.2020 requiring the petitioner to file representation before the Housing Board. Consequently, the petitioner filed an application before Housing Board on 14.10.2020 and the claim of the petitioner was rejected by the impugned order dated 22.02.2023(Annexure 13).

After perusing the impugned order, it appears that the respondent authorities while rejecting the claim of the petitioner mainly relied on two grounds. The first being that the application submitted by the petitioner was after 6 months from the date of Resolution no. 1817 dated 17.03.2017 and secondly, that there is no valid document to prove the occupancy of the house by the petitioner for the last 10 years.

The impugned order passed by the respondent authorities prima-facie appears to be perverse, based on wrong facts and deserves to be interfered, inasmuch as, from the documents annexed with the writ application it is evident that the petitioner submitted his first application with all requisite documents including proof of his residence in terms of Resolution dated 17.03.2017 on 29.08.2017 i.e. within six months from the date of resolution and further submitted letters from five families living nearby to House no. EWS-2 stating inter alia that the petitioner was residing in the aforesaid House in terms of meeting dated 13.07.2018 issued vide memo no. 2018 dated 05.09.2018.

6. Having regards to the aforesaid fact, interest of justice would be sufficed by remitting the case back to the concerned authority for taking a fresh decision after verification of records.

Accordingly, the writ application stands allowed and the impugned order, is hereby, quashed and set aside. The 2nd respondent is directed to take a fresh decision in the matter after providing due opportunity of hearing to the petitioner as was directed vide order dated 07.10.2020 passed in WP(C) no. 2750/2020 and reconsider the claim of the petitioner by passing a reasoned and speaking order within a period of eight weeks from the date of receipt/production of copy of this order. Pending IA, if any, is also disposed of.