

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18562 of 2008

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Harendra Pandey @ Harendra Kumar Pandey, son of late Jagdish Pandey,
resident of village- Pujaha, Police Station- Bairia, District- West
Champaran (Bettiah).

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, West Champaran, Bettiah.
3. The Additional Collector, Land Reforms, West Champaran, Bettiah.
4. The Circle Officer, Bairia, District West Champaran, Bettiah.
5. The Sub Divisional Officer, West Champaran, Bettiah.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. N. C. Verma

Mr. Milind Kumar Mishra

For the Respondent/s : Mr. Devendra Kumar Sinha, AAG-2

Mr. Pramod Kumar Sinha, AC to AAG-2

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

7 10-08-2015 Heard learned counsel appearing on behalf of the
petitioner and the learned Additional Advocate General No.2
appearing on behalf of the respondents.

The petitioner is aggrieved by the order dated
22.10.2008 (Annexure-6) passed by the respondent District
Collector, West Champaran, Bettiah, whereby Jamabandi of the
petitioner with respect to the lands under dispute mentioned in the
impugned order has been cancelled.

Learned counsel appearing on behalf of the petitioner
submits that as a matter of fact the lands in question was earlier
settled by the Ex. Landlord and, accordingly, Jamabandi was
created in favour of the petitioner as also his father. According to
him, the respondent Anchal Adhikari as also other revenue
authorities made a recommendation for cancellation of Jamabandi
of the petitioner, whereafter notice was issued to the petitioner
and, accordingly, he filed his show cause on 15.07.2008



(Annexure-5) asserting his claim over the lands in question and for rejection of the recommendation made by the revenue authorities. It is pleaded by the learned counsel appearing on behalf of the petitioner that while passing the impugned order, the respondent District Collector, West Champaran, Bettiah, has not at all taken into consideration the plea raised on behalf of the petitioner and in a mechanical manner merely on the basis of recommendation made by the revenue authorities has cancelled Jamabandi running in his name. According to him, rules of natural justice have not been strictly followed in the present case.

Learned Additional Advocate General -2 appearing on behalf of the respondents has opposed the prayer and supported the impugned order. However, he has fairly conceded that despite indulgence granted by this Court, counter affidavit has not been filed on behalf of the respondents. He further fairly concedes that in the given facts of the case, the matter may be remitted back to the respondent District Collector, West Champaran, Bettiah, with a direction to pass a fresh order after application of his independent judicial mind to the facts of the case.

After having heard the parties and taking into consideration the materials available on record, this Court is of the opinion that the matter requires re-consideration and fresh decision by the respondent District Collector, West Champaran, Bettiah. Apparently, in response to the notice issued by the respondent District Collector, West Champaran, Bettiah, the petitioner filed his show cause, but in the whole impugned order there is no reference at all about the show cause filed by the petitioner, or the plea raised on his behalf regarding the lands in question. Once a show notice was issued by the respondent

District Collector, West Champaran, Bettiah, and once the petitioner had filed his show cause, then that was required to be taken into consideration before passing the impugned final order, but that has not been done in the present case. Apparently, the rules of natural justice have not been strictly followed in the present case.

For the reasons recorded above, the impugned order dated 22.10.2008 (Annexure-6) passed by the respondent District Collector, West Champaran, Bettiah, is hereby set aside and quashed and the matter is remitted back to him with a direction to pass a fresh order strictly in accordance with law, but before doing that he must give an opportunity of hearing to the petitioner and for placing his materials in support of his claim over the lands in question.

In order to facilitate the early disposal of the matter, the petitioner is hereby directed to appear before the respondent District Collector, West Champaran, Bettiah,, within a period of two months from today with a certified copy of the present order, whereafter the respondent District Collector, West Champaran, Bettiah, shall proceed further in accordance with law. In case the petitioner fails to appear before the respondent District Collector, West Champaran, Bettiah, within the period prescribed above, then the present writ petition shall be construed to have been rejected on account of non-compliance of the Court's order.

The present writ petition stands allowed to the extent indicated above.

(Birendra Prasad Verma, J)

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