

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14688 of 2005

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Kanhaiya Mahto, son of late Bharat Mahto, resident of village- Masoom Ganj, P.S. Bhagwan Bazar, District, Chapra

.... Petitioner

Versus

1. The State of Bihar through Secretary, Urban Development Department, Government of Bihar,
2. The Executive Officer, Nagar Parishad Chapra
3. The then Executive Officer, Chapra, Nagar Parishad, Chapra

.... Respondents

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Appearance :

For the Petitioner : M/s. Nazeeb Ahmed,
Md. Sufiyan, Advocates

For the State : Mr. Ajay Kumar Sharma, A.C. to P.A.A.G.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

3 13-01-2015 Heard learned counsel for the petitioner and the State. No one appears on behalf of the respondent nos.2 and 3 despite service of notice upon them.

Petitioner is aggrieved by the order dated 05.01.2005 (Annexure 4) by which the order of mutation in favour of the petitioner passed vide Annexure 1 dated 14.02.2003 has been cancelled without even issuance of any notice upon the petitioner.

It appears that the order of mutation was passed in favour of the petitioner by the concerned Nagar Parishad, Chapra in case no.216/02-03 on 14.02.2003, as contained in Annexure 1. From the order dated 05.01.2005, which also



appears to have been passed by the Nagar Parishad, Chapra in the same case i.e. case no. 216/02-03, the earlier order has been cancelled. It appears from the order that the same has been passed after spot verification and on the basis of enquiry from local residents but it does not reveal that the petitioner was noticed before cancelling the earlier order which was passed in his favour. Annexure 3 is the enquiry report submitted by the Assistant of Nagar Parishad, Chapra to the Executive Officer. It does not appear from the aforesaid report also that, at the time of making spot verification, the petitioner was noticed and he was also present at that point of time.

Since the order was passed in favour of the petitioner vide Annexure 1, in my considered opinion, that could not have been recalled or cancelled without granting reasonable opportunity to the petitioner. The order appears to have been passed in gross violation of the principle of natural justice and, thus, the same cannot be sustained in law. As a result, this writ application succeeds and the impugned order dated 05.01.2005, as contained in Annexure 4, is quashed.

However, the matter is remitted back to the

authority concerned to take a fresh decision in accordance with law within a period of three months from the date of receipt/production of a certified copy of this order after granting opportunity to all the concerned.

It is made clear that this Court has not formed or expressed any opinion with regard to the merit of the case.

(Dr. Ravi Ranjan, J)

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