

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6004 of 2006

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Ram Akwal Sah S/o Shri Rajendra Sah, resident of village Pariyahi, P.S. Tajpur (Holai), District Samastipur

.... Petitioner/s

Versus

1. The State of Bihar through Secretary Land Reforms and Revenue, Govt. of Bihar, Patna
2. The Divisional Commissioner, Darbhanga at Darbhanga
3. The Collector, Samastipur
4. The Additional Collector, Samastipur, District Samastipur
5. The Sub Divisional Officer, Samastipur, District Samastipur
6. The Deputy Collector, Land Reforms, Samastipur District Samastipur
7. The Anchal Adhikari, Morwa, District Samastipur
8. The Block Development Officer, Morwa, District Samastipur
9. The Mukhia Gram Panchayat Rariahi, District Samastipur
10. The Headmaster, Govt. Middle School, Rariahi, P.S. Tajpur, District Samastipur
11. Ram Srinagar Thakur S/o Late Sarjug Thakur, resident of village Pariahi, P.S. Tajpur Halai, District Samastipur at present President Shiksha Samitee of Primary School, Pariahi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Narayan Yadav, Advocate
Mr. Bijay Bhushan Prasad, Advocate

For the Respondent Nos. 1 to 10 : Mr. Ranjan Kumar, AC to AAG IV

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

Date: 28-01-2016

Heard the parties.

2. Originally, the petitioner filed the present writ petition seeking a direction to the official respondents for settlement of Gairmazarua land in his favour in the light of the policy decision of the State Government dated 14/16th August, 1972, as contained in Annexure-1 to the writ petition, since he claims to be an Army personnel.

3. However, during the pendency of the present writ petition, the respondent District Collector, Samastipur passed final order on 23.08.2006 rejecting the claim of settlement made by the

petitioner. The aforesaid order dated 23.08.2006 was passed on the basis of the enquiry report dated 17.08.2006 submitted by the S.D.O. Samastipur. The aforesaid order dated 23.08.2006 and the enquiry report dated 17.08.2006 have been brought on record as Annexures A and B to the counter affidavit filed on behalf of the official respondents.

4. In above view of the matter, the petitioner filed I.A.No. 3807 of 2006 seeking amendment in the writ petition and seeking permission of this Court to challenge the final order dated 23.08.2006 passed by the respondent District Collector, Samastipur. The prayer for amendment was allowed by a Bench of this Court by order dated 08.09.2006.

5. The learned counsel appearing on behalf of the petitioner while assailing the validity and correctness of the aforesaid order dated 23.08.2006, as contained in Annexure-A to the counter affidavit, passed by the respondent District Collector, Samastipur submitted that the petitioner is an Ex-Army man and in view of the policy decision of the State Government, he was entitled for settlement of certain lands in his favour. It is contended that in the light of the aforesaid policy decision the petitioner applied for settlement of certain land in his favour, but the prayer for settlement has been rejected mechanically without looking into the aforesaid policy decision of the State Government or other policy decisions, which are/were in vogue. Furthermore, it is pointed out that before passing the impugned order dated 23.08.2006 or before holding enquiry by the SDO, the petitioner was not given any opportunity of hearing and entire proceeding has been carried out behind the back of the petitioner without giving any opportunity of hearing to him. It is also highlighted that the petitioner is practically a landless person and

he has only 6 kathas of land but without taking into consideration the aforesaid fact, by making a sweeping remark that he is not a landless person, his claim for settlement of land in his favour was rejected mechanically.

6. The matter has been contested by the respondents by filing a counter affidavit as also a supplementary counter affidavit. The learned State counsel by referring to the averments made in the aforesaid counter affidavit and the supplementary counter affidavit submits that the petitioner is not a landless person, but he has not been able to show that howmuch lands the petitioner is having and how on the basis of policy decision of the State Government, as contained in Annexure-1, his claim could have been rejected. He has also not disputed the fact that, at the time of holding enquiry, the petitioner was not present and before passing final order dated 23.08.2006 he was not given any opportunity of personal hearing.

7. After having heard the parties and taking into consideration the entire materials available on the record, this Court is of the opinion that the matter requires reconsideration and a fresh decision. Admittedly, before passing the impugned final order dated 23.08.2006, the petitioner was not given any opportunity of personal hearing. Indisputably, no information was given to him by the SDO, Samastipur while making local inquiry with respect to the land in question. The respondent District Collector while passing the impugned order dated 23.08.2006 has not taken into consideration the policy decision of the State Government as contained in Annexure-1.

8. For the reasons recorded above, the impugned order dated 23.08.2006 passed by the respondent District Collector, Samastipur, as contained in Annexure-A to the counter affidavit, rejecting the claim of settlement of land made by the petitioner is

hereby set aside and quashed, and the matter is remitted to the respondent District Collector, Samastipur for passing a fresh order in accordance with law, after giving an opportunity of personal hearing to the petitioner and, if need be, after holding fresh inquiry in presence of the petitioner regarding lands claimed by the petitioner.

9. In order to expedite the matter, the petitioner is hereby directed to appear before the respondent District Collector, Samastipur within a period of one month from today with a certified copy of the present order, whereafter the respondent District Collector shall proceed to decide the matter afresh strictly in accordance with law, but before passing any final order, he shall be obliged to give an opportunity of hearing to the petitioner as also local people/interested persons of the locality who are opposing the prayer for settlement of lands made by the petitioner.

10. The entire exercise must be completed by the respondent District Collector within a period of three months from the date of appearance of the petitioner in the manner indicated above.

11. The writ petition stands allowed to the extent indicated, but with the observations and directions made above. No costs.

(Birendra Prasad Verma, J)

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