

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23668 of 2013

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1. Savitri Devi, Wife Of Late Mahavir Prasad Agarwal, Resident Of Village - Jadia, P.S. Jadia, District - Supaul
2. Bimal Kumar Agarwal, Son Of Late Mahavir Prasad Agarwal, Resident Of Village - Jadia, P.S. Jadia, District - Supaul

.... Petitioner/s

Versus

1. The State Of Bihar through D.M. Supaul
2. The S.D.O. Triveniganj, District - Supaul
3. The Anchal Adhikari, Triveniganj, District - Supaul

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Syed Md. Najmul Bari, Adv.
Mr. Kameshwar Prasad Singh, Adv.
For the Respondent/s : Mr. Ashok Kumar, SC-11
Mr. Amresh, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 04-01-2016

Heard the parties.

The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the notices dated 4.10.2013 and 01.11.2013 issued to them respectively by the Competent Authority-cum-S.D.O., Triveniganj, Supaul, as contained in Annexure-1 series, whereby they have been called upon to show cause as to why an appropriate order may not be passed against them under the provisions of The Bihar Agriculture Land (Conversion for non-Agriculture Purposes) Act, 2010 and the Rules made thereunder.

By the impugned notices, the petitioners have been asked to show cause, but, instead of filing their show cause, they have straightaway come to this Court in the present proceeding filed under Article 226 of the Constitution of India.

Though, this writ petition was filed way back on 27.11.2013, but the learned State counsel appearing on behalf of the respondents has not filed any counter affidavit on their behalf.

The learned counsel appearing on behalf of the petitioners is also not in a position to state as to whether any final order has been passed or not by the competent authority.

While assailing the impugned notices, the learned counsel appearing on behalf of the petitioners has essentially raised the issues of facts and not any question of law.

In the considered opinion of this Court, the issues of facts must be raised and conclusively decided by the statutory authorities and only thereafter powers of judicial review of the High Court under Article 226 of the Constitution of India may be invoked.

In above view of the matter, the present writ petition is disposed of with a liberty to the petitioners to file their show cause before the competent authority, if they have not filed their show cause till date and the matter is still pending before the competent authority for final adjudication. If the show cause has already been filed by the petitioners and the matter is still pending, then they shall be at liberty to raise all the issues of facts and law before the competent authority, which may be available to them.

However, it is clarified that, if the Case No.2 of 2013-14 has already been disposed of by the Competent Authority-cum-S.D.O., Triveniganj (Supaul) and the petitioners are aggrieved by the said order, then they shall be at liberty to challenge that order before the prescribed statutory authorities.

The writ petition stands finally disposed of with the observations and directions made above.

Arvind/-

(Birendra Prasad Verma, J)

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