

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.21212 of 2011**

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Hare Krishn Paswan Son of Sri Harihar Paswan, Resident of Village- Rahimabad,  
Police Station- Bangara (Tajpur), District- Samastipur.

.... .... Petitioner

Versus

1. The State of Bihar through the Collector cum District Magistrate, Samastipur.
2. The District Magistrate, Samastipur.
3. The District Development Commissioner, Samastipur.
4. Block Development Officer, Samastipur Block, District- Samastipur.
5. Block Development Officer, Morwan Block, District--Samastipur.
6. The Executive Officer, NREP, Samastipur.
7. The District Certificate Officer, Samastipur.

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Choudhary Shyam Nandan, Advocate

For the Respondents : Mr. Shankar Kumar Thakur, AC to SC27

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**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**

ORAL JUDGMENT

**Date: 03-05-2016**

As prayed, learned counsel for the petitioner is permitted to make corrections in the date of the impugned order in paragraphs 1 and 2 as also in the prayer portion of the interlocutory application being I.A. 3593 of 2016, which has incorrectly been mentioned as “22.02.2013” in place of the correct date “20.02.2013, in course of the day.

**I.A. No. 3593 of 2016**

2. This interlocutory application has been filed for quashing the ex parte orders dated 08.08.2012 and 20.02.2013 passed by the respondent no. 5, Block Development Officer, Morwan, District Samastipur.

3. Having regard to the nature of the prayer made, the interlocutory application stands allowed and the petitioner is permitted to make amendments in the writ petition accordingly.

CWJC No. 21212 of 2011

4. The present writ petition has been filed for quashing the entire certificate proceeding in Misc. Case No. 01/2003-04 along with the notice dated 08.04.2003 issued under Section 7 of the Bihar & Orissa Public Demand Recovery Act, 1914 (for short, “the Act”) and for connected reliefs.

5. Learned counsel for the petitioner makes a short submission to the effect that in the earlier round of litigation, the petitioner approached this Court in CWJC No. 8868 of 2000 which was disposed of on 08.09.2000 with the following directions:-

“In the facts and circumstances, I remit the case to the Block Development Officer, Morwa Block, Samastipur before whom the petitioner will file a representation showing the details of work done; expenditure incurred and other facts enclosing relevant evidences in his support.

If such representation is filed by the petitioner within one month, the B.D.O., Morwa Block, Samastipur will hear the petitioner and enquire into the matter. On enquiry and verification, the said B.D.O. will pass appropriate order deciding the question as to whether the petitioner is entitled to get further amount from the State or the State is liable to recover the amount from the petitioner, or not.

It is expected that the B.D.O. will decide the issue on an early date, preferably within a period of two months from the date of receipt of such representation.

If any such representation is filed by the petitioner

within one month, the respondents will not recover any amount from the salary of the petitioner in pursuance of orders in question, till final decision is taken by the B.D.O. on the representation. Petitioner will be paid his regular salary in accordance with the provisions.

I may mention that I have not determined the claim as made on behalf of petitioner.

The writ petition stands disposed of, with the aforesaid observations/directions.”

6. Pursuant to the aforesaid direction, the petitioner had duly filed his representation before the respondent no. 5 on 30.09.2000 which finally came to be disposed of by the impugned order dated 08.08.2012 as rectified by the subsequent order dated 20.02.2013.

7. It is submitted that the impugned orders have been passed in clear violation of the aforesaid order of this Court dated 08.09.2000 which had specifically required the respondent no. 5 to hear the petitioner and enquire into the matter before passing appropriate orders, which has not been done.

8. Learned counsel for the respondents is unable to support the impugned order or controvert the petitioner's submission that no opportunity of hearing was provided to the petitioner prior to passing of the impugned orders.

9. Having heard the parties and on careful consideration of the materials available on record, this Court finds



merit in the writ petition. It is a matter of concern that even though the order of this Court was passed as far back as on 08.09.2000 pursuant to which the petitioner filed his representation on 30.09.2000, the matter remained dormant for more than a decade when the respondent no. 5 suddenly appears to have woken up and resumed the proceeding. The order dated 08.08.2012 is self-speaking of the casual manner in which the respondent no. 5 has proceeded. Despite specific orders of this Court to enquire into the matter, he has simply relied on an existing enquiry report of the Executive Engineer, observing that the same was valid and hence, no further enquiry was considered necessary. Such cavalier conduct on the part of the respondent no. 5 is deprecated.

10. In the above view of the matter, the impugned order dated 08.08.2012 as rectified by the subsequent order dated 20.02.2013 are hereby set aside with a direction to the respondent no. 5 to pass fresh orders in accordance with law after complying with the observations and directions of this Court as contained in the order dated 08.09.2000 passed in CWJC No. 8868 of 2000, without undue delay.

11. It is made clear that until the matter is finally disposed of by the respondent no. 5 afresh, no coercive action shall be taken against the petitioner in connection with Misc. Case no.

01/2003-04.

12. The writ petition accordingly stands disposed

of.

(Vikash Jain, J)

B.T/-

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