

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1989 of 2015

Raj Kumar Thakur Son of Late Kalikant Thakur, Resident of Village - Kharuwa, Police Station - Jhanjharpur, District - Madhubani, At present Darbhanga Pramandal Sachiv, Bihar Rajya Chaukidari Tashildari Singh.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner-cum-Secretary, Department of Revenue an Land Reforms, Govt. of Bihar, Old Secretariate, Patna.
3. The Special Secretary, Department of Revenue and Land Reforms, Govt. of Bihar, Old.
4. The Joint Secretary, Department of Revenue and Land Reforms, Govt. of Bihar, Old Secretariate, Patna.
5. The Commissioner, Department of Home, Govt. of Bihar, Patna.
6. The Joint Secretary to the Govt. of Bihar, Legal Department, Patna.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 19318 of 2013

Bihar Rajya Chaukidari Tahsildar Sangh Through Its General Secretary Makeshwar Singh S/O Late Baijnath Singh Resident of Village & P.O.- Bangra, P.S. Daudpur, District- Saran (Chapra)

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner Cum Secretary, Department Of Revenus And Land Reforms, Government Of Bihar, Old Secretariat, Patna.
3. The Special Secretary To The Governor Department Of Revenue And Land Reforms, Government Of Bihar, Old Secretariat, Patna.
4. The Joint Secretary Department Of Revenue And Land Reforms, Government Of Bihar, Old Secretariat, Patna.
5. The Commissioner, Department Of Home Government Of Bihar, Patna.
6. The Joint Secreter To The Government Of Bihar, Legal Department, Patna.

.... Respondent/s

Appearance :

(In CWJC No.1989 of 2015)

For the Petitioner/s : Mr. Satish Chandra Jha

For the Respondent/s : Mr. SC29- R.R.K. Pandey

(In CWJC No.19318 of 2013)

For the Petitioner/s : Mr. Mrityunjay Kumar

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 05-07-2016

Heard learned counsels for the parties.

Challenge is to Annexure – 1, dated 28.04.1997, which had been issued under the signature of the then Commissioner-cum-Secretary, Department of Revenue and Land Reforms. By virtue of this notification, the respondent-authorities have decided to abolish the collection of tax under the Choukidari System. The decision has been challenged by the petitioner in both the writ applications on the ground that such a decision taken by an executive authority cannot wish away or do away with the system, keeping in mind the law, which was declared by a Learned Single Judge in the case of Bihar Rajya Choukidari Tahsildar Sangh and others versus the State of Bihar and others, a copy of the said decision is contained in Annexure-3.

The Court is not going to get dragged into the dispute, which is going on between the two departments of the State, i.e., the Revenue and Land Reforms as well as the Home Department. This Court expects the State authorities to take stands of the State in unified voice instead of trying to put the burden of decision making upon each other.

It is rather regrettable that despite many adjournments prayed for on behalf of the State counsels, nothing tangible has emerged in the affidavits. We are back to square one with regard to

the dispute.

One thing, however, is undisputed that any decision, which is required to be taken for abolition of the Choukidari System for collection of any tax thereto can only be done by a decision of the Legislature for which appropriate law have to be brought into effect. Executive decisions cannot partake the nature of such a decision, which is required to be taken by the Legislature.

Annexure – 1 is quashed.

Writ application is allowed.

The ball is in the court of the State to redeem the situation, if they so like.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	A.F.R.
CAV DATE	
Uploading Date	05.07.2016
Transmission Date	