NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 524 of 2016

Arvind Kumar Nayak S/o Shri G.C. Nayak, Aged About 53 Years R/o Village Jalso, Thana And Tahsil Tilda, District Raipur Chhattisgarh

---- Petitioner

Versus

1. The State Of Chhattisgarh Through Its Secretary, Department Of Revenue And Disaster Department, Mantralaya, Raipur Chhattisgarh
2. The Additional Commissioner, Raipur Division, District Raipur Chhattisgarh
3. The Collector District Raipur Chhattisgarh

---- Respondents

Shri Parag Kotecha, counsel for the petitioner/s.
Shri Ramakant Mishra, Dy.A.G. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

29/02/2016

Considering that identical issue has already been decided by this Court, with the consent of the parties, the matter is heard finally.

1. The challenge is to the impugned order by which the Board of Revenue has granted permission to the Additional Commissioner to review its earlier order. Pursuant to the impugned order, the Additional Commissioner has now initiated review proceedings.

The order earlier passed by the Board of Revenue granting permission to review has been assailed on the sole ground that the said exercise has been undertaken without issuing notice to the petitioner and without affording any opportunity of hearing.

2. Learned counsel for the petitioner submits that the issue raised in this

petition is no longer *res integra*. He submits that in identical matter WP(C) No.1422 of 2015 vide order dated 01.10.2015, this Court, relying upon the judgment passed by the Division Bench of the High Court of Madhya Pradesh in the case of **Biharilal v. State of M.P. and others and connected matter, 2010 (2) MPHT 115 (DB)** and another order of the Division Bench in the case of **Shaheed Anwar v. Board of Revenue and another, 2000 RN 76,** has held that the order which was sought to be reviewed and in respect of which permission was obtained was passed in favour of the petitioner and therefore, exercise of review undertaken under Section 51 of the Land Revenue Code necessarily required notices to be issued to the person in whose favour the order, sought to be reviewed was passed.

3. Learned State counsel submits that the grounds on which review has been sought are not valid. Therefore, only on this technical ground, the petitioner is not entitled to any relief.

4. The issue whether issuance of notice would be necessary to the party in whose favour the order, sought to be reviewed, was passed, need not detain this Court any longer because principles of natural justice has been violated. The order which was sought to be reviewed and in respect of which permission was obtained from the Board of Revenue was admittedly passed in favour of the petitioner. Therefore, exercise of review undertaken under Section 51 of the Land Revenue Code necessarily requires notices to be issued to the petitioner.

In taking this view, I am supported by the order passed by the Division Bench of the High Court of Madhya Pradesh in the case of **Biharilal v. State of M.P. and others and connected matter, 2010 (2) MPHT 115 (DB)** and another order of the Division Bench in the Case of **Shaheed Anwar v. Board of Revenue and another, 2000 RN 76.**

5. In view of the above, the impugned orders cannot be sustained in law and are set aside. The concerned authority, however, shall be at liberty to initiate fresh proceedings after affording proper opportunity of hearing to the petitioner.

6. The petition is accordingly allowed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Deepti