NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 935 of 2016

Smt. Ritu Agrawal W/o Shri Mahesh Agrawal, Aged About 40 Years R/o Purana Sadar Bazar, Raigarh Tehsil And District Raigarh Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mahandi Bhawan, Mantralaya, Naya Raipur, Mandir Hasod, District Raipur Chhattisgarh
2. District Collector, Collectorate, Raigarh, (Chhattisgarh)
3. Sub Divisional Officer (Revenue), Pusaur, Tehsil Pusaur, District Raigarh, (Chhattisgarh)
4. Tahsildar, Pusaur, Tehsil Pusaur, District Raigarh, (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. K. Rohan, Advocate appears on behalf of Mr. Amrito Das, Advocate
For State	:	Mr. Ramakant Mishra, Dy. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

13/04/2016

Heard.

The challenge is to the impugned order by which, Sub-Divisional Officer (Revenue)/ respondent No.3 has granted permission to Tahsildar to review its earlier order. Pursuant to the impugned order, the Tahsildar has now initiated review proceedings and passed the order also.

The order earlier passed by the SDO 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 from SDO 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 SDO 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 (supra)** and another order of the Division Bench in the case of **Shaheed Anwar (supra).**

5. In view of the above, 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)
J U D G E

Rekha