

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7478 of 2017

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1. Prakash Chandra Son of Sri Bhagwan Prasad
2. Smt. Smita Prakash, Wife of Sri Prakash Chandra.
3. Birendra Kumar, Son of Sri Keshav Prasad
4. Smt. Priyanka devi Wife of Sri Birendra Kumar All residents of
Daudnagar, P.O. & P.S. Daudnagar, District Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Additional Collector, Aurangabad. null null
3. The Circle Officer, Daudnagar, Aurangabad.
4. The Excise Superintendent , Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey

For the Respondent/s : Mr. Md.Khurshid Alam-Aag12

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER**

2 06-09-2017 Heard learned counsel for the petitioners as well as

learned counsel for the State.

Petitioners have preferred this writ petition for
quashing of notice dated 09.03.2017 issued by Additional
Collector, Aurangabad in Janabandi Cancellation Case No. 01 of
2016-17 as well as entire proceeding in the aforesaid Jamabandi
Cancellation Case as well as order dated 09.03.2017 passed by the
Additional Collector, Aurangabad.

The claim of the petitioners is that they purchased the
lands in question from the heirs of Laxmi Narayan, who was
auction purchaser of the lands and, thereafter, petitioners got



mutated in their names in revenue records. However, prior to the mutation, the name of Excise Department and State of Bihar was wrongly recorded in revenue records which was subsequently, rectified by the survey authorities and, thereafter, the name of petitioners was mutated. However, the original owner had filed CWJC No. 177 of 2004 against the Excise officials for their ejectment from the lands in question and a Division Bench of this Court vide order dated 10.03.2004 passed in 177 of 2004 directed the Excise officials to vacate the lands in question and hand over its possession to the original owner.

Learned counsel for the petitioner further submits that after ejectment from lands in question, the Excise Superintendent gave a petition to Circle Officer for cancellation of Jamabandi created in the name of petitioners and the Circle Officer vide order dated 06.03.2017 recommended to Additional Collector for cancellation of Jamabandi of the petitioners. However, before making the aforesaid recommendation, the circle officer, Daudnagar had not given any notice to the petitioners nor gave any opportunity to them to adduce their evidence. Moreover, on the basis of report of Circle Officer, Daudnagar, the Additional Collector, Aurangabad issued notices to the petitioners which have been annexed as Annexures-1 and 1A to the petition.



Admittedly, up till now the Jamabandi created in the name of petitioners have not been cancelled and the aforesaid Janabandi Cancellation Case No. 01 of 2016-17/155 of 2016-17 is still pending before the Additional Collector, Aurangabad and only notices have been issued to the petitioners to place their stand before the Additional Collector, Aurangabad. Therefore, in my view, the present writ petition appears to be premature.

However, in course of hearing, learned counsel appearing for the petitioners seeks permission to withdraw this petition with liberty to raise the grievances of the petitioners before the Additional Collector, Aurangabad in the above stated Janabandi Cancellation Case No. 01 of 2016-17/155 of 2016-17.

In view of the aforesaid facts and circumstances as well as submissions of the parties, this writ petition stands disposed of giving liberty to the petitioners to appear before the Additional Collector, Aurangabad in the aforesaid Janabandi Cancellation Case No. 01 of 2016-17/155 of 2016-17 and shall raise all the points before the Additional Collector, Aurangabad within four weeks from today and if petitioners do so, the Additional Collector shall consider all the points in accordance with law without being prejudiced by the observation/ finding given by Circle Officer, Daudnagar in his order/ report dated



06.03.2017 and shall decide each and every issue involved in this matter in accordance with law by speaking order.

(Hemant Kumar Srivastava, J)

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