

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No.2159 of 2017

Santosh Kumar Gautam, S/o Ramu Singh Gautam, aged about 34 years, R/o Village Dhanras, Tahsil Kota, Distt. Bilaspur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Revenue, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur (C.G.)
 2. District Collector, Raigarh, District Raigarh (C.G.)
 3. Sub Divisional Officer (Revenue), Kharsiya, Raigarh, District Raigarh (C.G.)
 4. Tahsildar, Kharsiya, Raigarh, Distt. Raigarh (C.G.)
 5. Sanjay Sidar, S/o Pitambar, aged about 30 years, R/o Village Nawapara, Tahsil Malkharoda, Distt. Janjgir-Champa (C.G.)
- Respondents

Writ Petition (C) No.2162 of 2017

Santosh Kumar Gautam, S/o Ramu Singh Gautam, aged about 34 years, R/o Village Dhanras, Tahsil Kota, Distt. Bilaspur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Revenue, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur (C.G.)
 2. District Collector, Raigarh, District Raigarh (C.G.)
 3. Sub Divisional Officer (Revenue), Kharsiya, Raigarh, District Raigarh (C.G.)
 4. Tahsildar, Kharsiya, Raigarh, Distt. Raigarh (C.G.)
 5. Gangadhar, S/o Khamman Singh, aged about 60 years, R/o Village Kunkuni, Tahsil Kharisya, Raigarh, Distt. Raigarh (C.G.)
- Respondents

Writ Petition (C) No.2163 of 2017

Santosh Kumar Gautam, S/o Ramu Singh Gautam, aged about 34 years, R/o Village Dhanras, Tahsil Kota, Distt. Bilaspur (C.G.)
---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Revenue, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur (C.G.)
 2. District Collector, Raigarh, District Raigarh (C.G.)
 3. Sub Divisional Officer (Revenue), Kharsiya, Raigarh, District Raigarh (C.G.)
 4. Tahsildar, Kharsiya, Raigarh, Distt. Raigarh (C.G.)
 5. Govind Ram, S/o Sahu Sidar, aged about 27 years, R/o Village Madanpur (Kenabhata), Tahsil Kharsiya, Raigarh, Distt. Raigarh (C.G.)
- Respondents

Writ Petition (C) No.2164 of 2017

Santosh Kumar Gautam, S/o Ramu Singh Gautam, aged about 34 years, R/o Village Dhanras, Tahsil Kota, Distt. Bilaspur (C.G.)
---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Revenue, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur (C.G.)
 2. District Collector, Raigarh, District Raigarh (C.G.)
 3. Sub Divisional Officer (Revenue), Kharsiya, Raigarh, District Raigarh (C.G.)
 4. Tahsildar, Kharsiya, Raigarh, Distt. Raigarh (C.G.)
 5. Rajni Kumari, D/o Raghu Singh, aged about 37 years, R/o Village Ghivra, Post Dewargata, Tahsil Dabra, Distt. Janjgir-Champa (C.G.)
- Respondents

AND

Writ Petition (C) No.2167 of 2017

Santosh Kumar Gautam, S/o Ramu Singh Gautam, aged about 34

years, R/o Village Dhanras, Tahsil Kota, Distt. Bilaspur (C.G.)
---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Revenue, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur (C.G.)
2. District Collector, Raigarh, District Raigarh (C.G.)
3. Sub Divisional Officer (Revenue), Kharsiya, Raigarh, District Raigarh (C.G.)
4. Tahsildar, Kharsiya, Raigarh, Distt. Raigarh (C.G.)
5. Ram Singh, S/o Firtu, aged about 53 years, R/o Village Mohapali, Tahsil & PS Kharsiya, Raigarh, Distt. Raigarh (C.G.)
---- Respondents

For Petitioner:	Mr. B.D. Guru, Advocate.
For Respondents No.1 to 4 / State: -	Mr. Prasun Kumar Bhaduri, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

04/08/2017

1. Since common question of law and fact is involved in these writ petitions, they are being disposed of by this common order.
2. For the purpose of disposal of these writ petitions, facts pleaded in W.P.(C)No.2159/2017 are being referred.
3. Tahsildar, Kharsiya, passed order dated 12-4-2017 and sought permission to review the order dated 15-8-2013 passed by him and that permission was granted by the Sub Divisional Officer (Revenue) on 20-4-2017 to review the order dated 15-8-2013.
4. Feeling aggrieved against the order granting permission to review, these writ petitions have been filed by the petitioner stating inter alia

that he is the affected party and the order granting permission to review could have been passed by the learned Sub Divisional Officer (Revenue) only after hearing him and noticing him which has not been done, therefore, the impugned orders deserve to be set aside.

5. Learned counsel for the petitioner submits that permission for review has been granted by the Sub Divisional Officer (Revenue) without noticing and without hearing the petitioner which is the affected party as by order granting review, the mutation order in his favour is sought to be cancelled and that order has been passed mechanically.
6. Learned State counsel would submit that the impugned order is supportable in law.
7. I have heard learned counsel for the parties and perused the impugned orders with utmost circumspection.
8. Review is governed by Section 51 of the Chhattisgarh Land Revenue Code, 1959 which clearly states that permission cannot be granted without noticing and without hearing the person to be affected by granting permission to review, therefore, opportunity must be granted before granting permission to review the order and the sanctioning authority must apply its mind before granting permission. The M.P. High Court in the matters of **Shaheed Anwar v. Board of Revenue and another**¹, **Ravi Narayan v. State of Madhya Pradesh and others**² and **Biharilal v. State of Madhya Pradesh and others**³ as well as this Court in the matters of **Thakur Yashwant Singh v. State of Chhattisgarh and others**⁴, **Smt. Santosh Sharma and another**

1 2000 RN 76

2 2000(I) MPJR 528

3 2010(2) MPHT 115 (DB)

4 2016 SCC OnLine Chh 1606

v. State of Chhattisgarh and others⁵ and **Kailash Mishra v. Board of Revenue and others**⁶ has laid down similar proposition and held that in order to grant permission to review, notice is required to be given to the affected party and he has to be heard.

9. In the present case, the Sub Divisional Officer (Revenue) has granted permission for review without hearing the petitioner in whose favour the order of mutation stands as on date and that has been done without hearing the petitioner and it has also been recorded that there is no need to hear the person affected which is clearly unsustainable and bad in law in view of aforesaid decisions.
10. In the result, the impugned orders passed by the Sub Divisional Officer (Revenue), Kharsiya are set aside. However, the matters are restored to the file of the Sub Divisional Officer (Revenue) who will hear the petitioner and other affected party, if any, and passed order afresh within thirty days from the date of first hearing of the parties.
11. The writ petitions are allowed to the extent indicated herein-above.
- No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

5 W.P.(C)No.77/2016 decided on 24-2-2016

6 W.P.(Art. 227)No.3225/2011 decided on 9-12-2016