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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1683 of 2017

1. Mahaveer Prasad Jaiswal S/o Late Shri Jokhan Lal Jaiswal Aged About 69 Years R/o Dungaji Colony, P.S. Saraswati Nagar, Raipur, Revenue District Raipur, Tahsil & District Raipur, Chhattisgarh, Revenue Distt. Raipur (Chhattisgarh)

2. Smt. Kusum Devi W/o Late Shri Chhati Prasad Jaiswal Aged About 73 Years R/o Dungaji Colony, P.S. Saraswati Nagar, Raipur, Revenue District Raipur, Tahsil & District Raipur, Chhattisgarh, Revenue Distt. Raipur (Chhattisgarh) **---- Petitioners**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh

2. Sub Divisional Officer (Revenue), Office Of Sub Divisional Officer, Revenue Raipur, District Raipur, Chhattisgarh

3. Nayab Tahsildar, Raipur, Tahsil & District Raipur, Chhattisgarh

----Respondents

For Petitioners	:	Mr. S.S. Rajput with Mr. Sharad Mishra, Advocates
For State	:	Mr. Chadresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

22/06/2017

Heard on admission.

1. The challenge is to the impugned order by which, Sub-Divisional Officer (Revenue) 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 petitioners and without affording any opportunity of hearing.

2. Learned counsel for the petitioners 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 petitioners 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 petitioners are not entitled to any relief. He further submits that the order passed by the authority is in accordance with law and the provision contained in Section 51 of the Chhattisgarh Land Revenue Code.

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 petitioners. Therefore, exercise of review undertaken under Section 51 of the Land Revenue Code necessarily requires notices to be issued to the petitioners.

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 petitioners.

6. The petition is accordingly allowed.

Sd/-
(Manindra Mohan Shrivastava)

J U D G E

Rekha