

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7348 of 2014

=====

Vinay Kumar S/O Late Chandrika Prasad Sharma Resident of Village - Jihuli, P.S.
- Patahi, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Land Reforms Department, Govt. of Bihar, Patna.
3. The Collector-cum-District Magistrate, West Champaran at Bettiah.
4. The Additional Collector, Bettiah Sadar, Bettiah, District - West Champaran.
5. The Land Reforms Deputy Collector, Bettiah Sadar, Bettiah, District - West Champaran.
6. The Circle Officer, Nautan Anchal, Nautan, District - West Champaran.
7. The Treasury Officer, Bettiah Treasury Office, Bettiah, District - West Champaran.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr Sanjeev Kumar, Advocate
For the S t a t e : AC to GP VII

=====

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 03-08-2018

Heard learned counsel for the petitioner and the respondent-Sate.

2 Petitioner is aggrieved by imposition of penalty by order dated 19.10.2013 bearing Memo No 629 issued by Land Reforms Deputy Collector, Bettiah. The petitioner has been imposed penalty in purported exercise of power under Section 7 (2) of the Bihar Right to Public Services Act, 2011 (for brevity, *the Act*). Learned counsel for the petitioner has submitted that the order of penalty, apart from being without jurisdiction, is also in violation of



the basic principles of natural justice which has been incorporated in Section 7 of the Act.

3 Pointing out to the order dated 19.10.2013, it is submitted that the Circle Officer, who was the Designated Officer under the Act, was called upon to respond for delay in disposal of certain applications for mutation. In his response, the Circle Officer, Nautan has indicated that delay in discharging the services was on account of the petitioner, who was the Revenue Karamchari concerned. As a result of such a show cause issued to another Authority, penalty has been imposed to the petitioner under the Act.

4 Section 7 of the Act provides the procedure for imposing penalty which contemplates a complaint made by the person seeking the service before the Appellate Authority and, thereafter, upon the Appellate Authority to afford an opportunity to the designated authorities under the scheme of the Act and only thereafter, a penalty could have been imposed.

5 Bihar Right to Public Services Rules, 2011 provide the list of designated authorities with reference to the various services which are to be provided. At serial 16 of the list, the Designated Authority for providing mutation of land services has been specified as the Circle Officer. Petitioner is not a Circle Officer. In this case, show cause was issued in respect of the delay to the Circle Officer.



Admittedly, no show cause or no opportunity, as mandated under the Scheme of the Act, was given to the petitioner. Under the list contained in the Rules, the petitioner is also not the Designated Authority for providing the services of mutation of land, violation of which has been made the basis of award of penalty upon the petitioner. These issues, though specifically raised in the writ petition, have not been denied or disputed in the counter affidavit. A mere plea has been taken that the petitioner has approached the Appellate Authority being the Additional District Magistrate, Bettiah (for brevity, *ADM*) but he has not pursued the remedy before the ADM, Bettiah.

6 Be that as it may, since the “reasonable opportunity” contemplated under Section 7 of the Act has not been complied with in the instant case, the order dated 19.10.2013 imposing the penalty is violative of principles of natural justice.

7 The writ petition is allowed and the order dated 19.10.2013 is hereby quashed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.08.2018
Transmission Date	NA

