

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1286 of 2019

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Akali Devi Sri Mangal Sahni @ Mangal Kevat Resident of Village- Tharthari
Bazar, P.S.- Tharthari, District- Nalanda Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate, Nalanda
3. The Deputy Collector, Land Reforms, Hilsa, Nalanda
4. The Circle Officer, Tharthari, Hilsa, Nalanda
5. The Superintendent of Police, Nalanda
6. The Officer-in-Charge, Tharthari Police Station, Nalanda

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Ashok Kumar Singh, Advocate Ms. Sweta Singh, Advocate
For the Respondent State:		Mr. Rishi Raj Sinha, SC-19 Mr. Akhilesh Kumar Sinha, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

- 2 21-01-2019 Any person, who has a grievance against the State, within the meaning of under Article 12 of the Constitution of India, must have a forum for redressal thereof. Because of small land holdings in the State of Bihar and also because of inadequate implementation of land reforms in the State, land related disputes have substantially increased. Evidently, in order to provide fora to aggrieved parties to deal with the situation, the State Legislature of Bihar has enacted a number of enactments from 2009 to 2015. The first step in this direction is enactment of Bihar Land Disputes Resolution Act, 2009 (Bihar Act 4 of 2010) (hereinafter referred to as ‘the Land Disputes Resolution Act’), which came into force from the date of its



publication in official gazette on 08.01.2010. In the same year, Bihar Land Tribunal Act, 2009 (Bihar Act 9 of 2009) (hereinafter referred to as 'the Land Tribunal Act') was enacted, which was published in the official gazette on 03.09.2009. Disputes relating to mutation are very common in the State of Bihar and for quick and effective resolution of such disputes, Bihar Land Mutation Act, 2011 (Bihar Act 23 of 2011) has been enacted, which was published in the official gazette on 22.12.2011. In addition, Bihar Agriculture Land (Conversion for Non-Agriculture Purposes) Act, 2010 (Bihar Act 11 of 2010) and Bihar Special Survey and Settlement Act, 2011 (Bihar Act 24 of 2011) have been enacted. In 2015, the Bihar Right to Public Grievance Redressal Act, 2015, has been enacted, which came into force on 05.06.2016. Statutory Rules have also been framed under all these Act for carrying out the purposes of the Act. This Court, dealing with the writ applications on land related matters has experienced that the litigants generally have a grievance in relation to such disputes, most of which are covered by either of the enactments as noted above.

The present case is an example. This application has been filed under Article 226 of the Constitution of India seeking direction to the respondents including the District Magistrate,



Nalanda, Deputy Collector land Reforms, Hilsa, Nalanda, Circle Officer, Tharthari, Hilsa, Nalanda, Superintendent of Police, Nalanda and Officer-in-Charge, Tharthari Police Station, Nalanda, to measure and demarcate the piece of land, which the petitioner is said to have purchased through a registered sale-deed.

It is the petitioner's grievance that the petitioner approached the Circle officer, Tharthari, for demarcation after measurement of the land in question pursuant to which the Circle Officer, Tharthari, had ordered for demarcation, but because of the intervention of the Officer-in-Charge, Tharthari Police Station, measurement and demarcation of the land could not be carried out. It is asserted that 13.12.2018 was the date fixed for measurement/demarcation of the land and notices were accordingly issued to all boundary *raiyats* for their presence by the Circle Officer, but because of the intervention of the Police Officer, the said exercise could not be undertaken. In response to a query made by this Court, as to whether the petitioner ever approached the higher authorities of the district administration raising the grievance, which has been raised in the present writ application, learned counsel for the petitioner submits that the petitioner has personally met some of the authorities, but has not



filed any case or written application.

This trend of the litigants approaching the High Court invoking extraordinary writ jurisdiction under Article 226 of the Constitution of India has made the Court enquire and investigate the fora available to the litigants under the various provisions of various enactments, as noted above, visibly enacted to provide quicker and more effective relief to the litigants by executive or quasi judicial process. For the said reason, I will be briefly referring to the purpose, scope, forum/fora available and the procedure prescribed under the above noted enactments for resolution of disputes of the citizens in the State of Bihar.

Bihar Land Disputes Resolution Act, 2009 :-

First in the line being Bihar Land Disputes Resolution Act, 2009, I am dealing with the provisions thereunder first. The avowed objective of this Act has been declared in the preamble of the Act, which recognises that in the State of Bihar, disputes relating to record of rights, boundaries, entries in revenue records, unlawful occupation of raiyati land and forcible dispossession of allottees and settlees of public land, generate problems and cause unnecessary harassment to bonafide allottees/settlees, raiyats or occupants. The preamble also recognizes the fact that disputes with respect to raiyati land or



public land allotted in favour of different classes of allottees are unnecessarily occupying major space of Civil Courts and the High Court, which should otherwise have been resolved by the Revenue Authorities, who may be better equipped to deal with such disputes having regard to their continued presence in the field offices and their expertise in Revenue Administration. The State Legislature further recognizes, based on ‘analysis of data relating to nature of disputes’, that the disputes mostly appertain to matters connected with the record of rights, partition of jamabandi, forcible dispossession of allottees/raiats, boundary disputes involving the following enactments :-

- (1) The Bihar Land Reforms Act, 1950,
- (2) The Bihar Tenancy Act, 1885,
- (3) The Bihar Privileged Persons Homestead Tenancy Act, 1947,
- (4) The Bihar Bhoodan Yagna Act, 1954,
- (5) The Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) Act, 1961, and
- (6) The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956.

The State Legislature though noticed that different fora and procedures have been provided for the resolution of



disputes under the aforesaid six enactments, but has considered it expedient to provide 'a uniform and common forum, procedure and mechanism', which would 'achieve the object of effective, efficacious and speedy resolution of disputes'. The preamble declares that it is in larger public interest that it is deemed necessary to provide for 'effective and speedy mechanism' to resolve 'such disputes, which give rise to major turbulence, if not addressed immediately and effectively'. The preamble is eloquent in delineating the objectives of the Land Disputes Resolution Act.

Section 3 of the Land Disputes Resolution Act is very significant inasmuch as it says that procedure prescribed in the Act shall be applicable for resolution of any dispute arising out of or in all the aforesaid Acts, to the extent this Act has covered such disputes and has provided forum, procedure and mechanism for their resolution notwithstanding anything contained in the following Acts :

- (1) The Bihar Land Reforms Act, 1950,
- (2) The Bihar Tenancy Act, 1885,
- (3) The Bihar Privileged Persons Homestead Tenancy Act, 1947,
- (4) The Bihar Bhoodan Yagna Act, 1954,



(5) The Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) Act, 1961, and

(6) The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956.

The types of disputes, which a competent authority under the Land Disputes Resolution Act shall have jurisdiction and authority to hear and adjudicate on an application or complaint or any application referred to by prescribed authority or officer have been enumerated in sub-Section (1) of Section 4, which are as under : -

“Section 4 - Jurisdiction and authority to resolve disputes- (1) The competent authority shall have jurisdiction and authority to hear and adjudicate, on an application or complaint or on any application referred to by a prescribed authority or officer, any issue arising out of following types of disputes:-

(a) Unauthorised and unlawful dispossession of any settlee or allottee from any land or part thereof, settled with or allotted to him under any Act contained in Schedule-1 to this Act by issuance of any settlement document/parcha by a competent authority;

(b) Restoration of possession of settled / allotted land in favour of legally entitled settlee/ allottee or his successors/heirs, upon adjudication of unauthorized and unlawful dispossession;

(c) Threatened dispossession of a legally entitled settlee/ allottee;

(d) Any of the matters enumerated in (a), (b) and (c) above appertaining to raiyati land.



- (e) Partition of land holding;**
- (f) Correction of entry made in the record of rights including map/survey map.**
- (g) Declaration of the right of a person;**
- (h) Boundary disputes;**
- (i) Construction of unauthorized structure; and**
- (j) Lis pendens transfer.”**

Competent authority has been defined under Section 2(a) of the Act as the Deputy Collector Land Reforms or any officer assigned to discharge the functions and duties of Deputy Collector Land Reforms in the Sub-division. ‘Prescribed authority or officer’, under Section 4(1) of the Land Disputes Resolution Act, has been defined in Bihar Land Disputes Resolution Rules, 2010, as under :

“(a) Principal Secretary/Secretary, Department of Revenue & Land Reforms, Government of Bihar, Patna or an officer authorised by him for the purposes of this Act.

(b) Principal Secretary/Secretary, Chief Secretary’s Cell Public Grievances, Department of Cabinet Secretariat, Government of Bihar, Patna or an officer authorised by him for the purposes of this Act.

(c) Principal Secretary/Secretary, Chief Minister’s Secretariat, Bihar or an officer authorised by him for the purposes of this Act.



(d) Commissioner of the Division.

(e) Collector of the District.”

Sub-Section (2) of Section 4 of the Land Disputes Resolution Act limits the jurisdiction of the competent authority with the statement that he shall have no jurisdiction to review or reopen finally concluded and adjudicated proceeding under any of the Acts contained in Schedule-I. The Acts in Schedule-I are the same six enactments, which have been noted hereinabove and figure in Section 3 of the Act. It clarifies that competent authority shall exercise his authority for resolving the dispute brought before him on the basis of any final order passed by the authorities empowered to do so in the said six Acts contained in Schedule-I of Land Disputes Resolution Act. Sub-Section (3) of Section 4 of the Land Disputes Resolution Act is also significant and has again puts limitation on the jurisdiction of the competent authority with the statement that he shall not have jurisdiction to adjudicate any ‘fresh right of allottee/settlee or a raiyat which is not yet determined and is required to be determined in accordance with provisions contained in any of the said six Acts. Proviso to sub-Section (3), to allay any scope of doubt or confusion stipulates that where rights of allottee/settlee or raiyat are already determined under any of the



Acts contained in Schedule-1, the competent authority shall have jurisdiction to entertain cases appertaining to matters enumerated in sub-section (1). Sub-Section (5) requires the competent authority to close a proceeding before him and leave the dispute open to the parties to seek remedies before the competent Civil Court, if it appears to him that the case instituted before him involves complex question of adjudication of title. I am now referring to sub-Section (4) after sub-Section (5) of Section 4 for a purpose. Sub-Section (4) stipulates that in a situation where there is no provision made in any of the six enactments, as noted above, for determination of rights of allottee/settlee or raiyat and claimed right is yet to be determined, it shall be open to the competent authority to finally determine such right. The said provision under sub-Section (4) of Section 4 has been declared arbitrary and unconstitutional by a Division Bench of this Court in case of ***Maheshwar Mandal Vs. The State of Bihar and Others***, reported in **2018(3) PLJR 1007** (See Paragraph 54). The Division Bench has also ruled that sub-Section (5) of Section 4 has to be taken as mandatory provision and it shall be ‘the duty of the competent authority’ to close the proceeding, which involve question of title and rights and are in the nature of disputes covered under any of the six



enactments mentioned under Schedule-I of Land Disputes Resolution Act, which have not been adjudicated by a competent Civil Court.

A bare reading of Section 4, ignoring sub-Section (4) of the said Section read with the Division Bench decision in case of *Maheshwar Mandal* (supra), it is easily evincible that the competent authority under the Act shall have jurisdiction to entertain a grievance in respect of individual rights, which have been determined under the provisions of the enactments referred to in Schedule-I of Land Disputes Resolution Act. Meaning thereby that the competent authority is to entertain a complaint when a person has a grievance arising out of such of his rights, which have been already determined under various provisions of the Acts of Schedule-I of Land Disputes Resolution Act.

Section 9 of the Land Disputes Resolution Act requires the competent authority to take all possible steps for expeditious resolution of the dispute and to ensure final adjudication within a maximum period of three months from the date of the institution of the case before him. Sub-Section (3) of Section 9 contemplates initiation of disciplinary action against the competent authority in the event of failure to dispose of the case within the stipulated period without sufficient cause. Sub-



Section (2) of Section 9 commands that the competent authority shall not allow adjournment to the parties without sufficient cause. Schedule-I of the Land Disputes Resolution Act, as is evident, declares Deputy Collector Land Reforms as the Court of original jurisdiction and Commissioner of the concerned Division as the Court of Appeal. Section 10 of the Land Disputes Resolution Act envisages that no other Court except the Courts mentioned in Schedule-II shall take cognizance of a case filed under this Act and any proceeding lying in a Court other than those mentioned in Schedule-I of the Act, in which issues raised are the same as the issue in a case under this Act, shall abate. As per Section 10(3), after abatement of a case under Section 10(2), the case filed under this Act shall be adjudicated and disposed of in accordance with the provisions of the Act. In case, a competent authority is satisfied that any of the parties has committed a criminal act or there is likely to be breach of peace, he may refer it to the court of competent Magistrate for proceeding in accordance with provisions contained in the Criminal Procedure Code, Section 11 requires. Section 12 confers on Collector of the District power to exercise superintendence, supervision and control over the competent authority. The Collector under the said provision has power to



review the functioning of the competent authority from time to time and in case he is satisfied that the cases are not being disposed of expeditiously without sufficient cause, he is obliged to immediately report the matter to the Government for necessary action. Section 13 lays down the procedure for resolution of disputes. Detailed dispute resolution procedure has been prescribed by the Government by framing Bihar Land Disputes Resolution Rules, 2010 (hereinafter referred to as 'the Land Disputes Resolution Rules') in exercise of power conferred under Section 17 of the Land Disputes Resolution Act read with sub-Section (11) of Section 13. Section 14 provides for appeal before the Commissioner against the order of the competent authority whereas Section 15 deals with the execution of the order passed by the competent authority. Section 16 gives the competent authority power to attach in the interest of justice, standing crop over the disputed land, by passing appropriate orders and order sale of standing crop during the pendency of the proceeding before him.

A glance over the different provisions of the Land Disputes Resolution Act clearly shows that the persons with their grievances, arising out of or based on rights which they have acquired by virtue of determination under various



provisions of the enactments listed in Schedule-I of the Land Disputes Resolution Act, have been provided with effective time-bound remedy under the said Act, which is not only efficacious but expeditious too.

The Bihar Land Disputes Resolution Rules, 2010, provides a detailed procedure for disposal of cases filed under the Act after complying with the principles of natural justice upon giving the other side due opportunity of hearing.

Bihar Land Tribunal Act, 2009 :- This Act has been enacted under Article 323B of the Constitution of India to provide for adjudication or trial by the Tribunals. The Land Tribunal Act also acknowledges that the disputes relating to the land pending before different fora in the State of Bihar are huge in number and the present machinery, including Civil Courts is overburdened because of pendency of huge number of disputes relating to land. On reading of preamble of Bihar Land Tribunal Act, it is easily noticeable that the State Government has to face with the complexities arising out of the multiplicity of adjudicating machinery and delay in the settlement of disputes and, therefore, in the larger public interest and in the interest of the people of the State it was deemed expedient to create a consolidated forum for adjudication of all disputes appertaining



to land in the State of Bihar. The Land Tribunal Act has been enacted apparently in conformity with Section 48 to 53 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961. Powers of the Tribunal have been defined under Section 9 of the Land Tribunal Act, according to which, the Tribunal is to entertain any application against final order passed by appropriate authorities under the following Acts/manuals : -

(i) The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961

(ii) The Bihar Land Reforms Act, 1950

(iii) The Bihar Tenancy Act, 1885

(iv) The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956

(v) The Bihar Tenants' Holdings (Maintenance of Records) Act, 1973

(vi) The Bihar Bhoodan Yagna Act, 1954

(vii) The Bihar Privileged Persons Homestead Tenancy Act, 1947

(viii) The Bihar Government Estates Manual, 1953

(ix) The Bihar Settlement Manual.

The jurisdiction of the Tribunal, as is evident from the



language of Section 9, is to entertain applications against the final order. Evidently thus, a person cannot approach the Tribunal, unless there is an order, which he wants to assail and which order is final under the above noted Act/Manuals. The Tribunal cannot be approached merely seeking any kind of direction to any authority under the aforesaid Act/Manuals. Two aspects must exist for the Tribunal to entertain an application, namely, (i) the application is against an order passed under the Acts/Manuals referred to above and (ii) the order under challenge before the Tribunal is the final order under the Act. The Tribunal does not have any power to review its own order and reconsider its order and pass a fresh order, though the Tribunal has power to make any correction in the order, under Section 11 of the Land Tribunal Act.

Bihar Land Mutation Act, 2011 (Act 23 of 2011) :-

The State Legislature, evincibly, considering the need of the hour has enacted Bihar Land Mutation Act, 2011 (hereinafter referred to as 'the Land Mutation Act') in order to regulate the process of mutation of land and making it concomitant with the needs of the present time. The expression 'Mutation' has been defined in sub-Section (1) of Section 2 of the Land Mutation Act to mean, alteration in the entries in the



Continuous Khatian, Tenants' Ledger and Khesra Register on account of transfer of right of a person in a holding or a part thereof by several means including Sale-Purchase, gift, Exchange, Partition of Holding, inheritance etc. as mentioned thereunder. The list is self contained and exhaustive. Section 3 allows a person to make an application for mutation on acquiring interest in a holding or part thereof.

Chapter-V of the Land Mutation Act prescribes the procedure for disposal of mutation cases, whereas Chapter-VI contains the provisions for appeal and revision. Section 9 of the Land Mutation Act empowers the Additional Collector under the Act to, either *suo motu* or on an application, to make enquiries in respect of any *jamabandi*, which has been created in violation of any law for the time being in force in contravention of any executive instruction issued in this regard. After completion of enquiry and giving reasonable opportunity to the parties to appear, adduce evidence and be heard, the Additional Collector has been given the authority to cancel *jamabandi* in appropriate cases. The proceedings under the Land Mutation Act are to be summary proceedings in view of Section 11 of the Land Mutation Act. Section 12 of the Land Mutation Act is of significance, which lays down the time limit for disposal of



mutation cases in regular mutation Courts. Section 13 lays down the time limit for disposal of mutation cases in camp Courts. The time limit prescribed under the aforesaid two provisions can be summarized as follows :

S.N.	Case/Circumstance/Situation	Regular Court	Camp Court
1.	Cases in which no objection has been received	21 working days from the date of receipt of mutation petition out of which 18 days for passing the order and three to issue correction slip, if required.	18 working days from the date of receipt of mutation petition out of which 15 days for passing the order and three to issue correction slip, if required.
2.	Cases in which objection has been received	33 working days from the date of receipt of mutation petition out of which 30 days for passing the order and three working days to issue correction slip, if required.	33 working days from the date of receipt of mutation petition out of which 30 days for passing the order and three working days to issue correction slip, if required.

The legislative intent to enforce the provisions under the Land Mutation Act by strictly adhering to the time schedule can be easily seen from the language of Sections 14 and 15, which require the Circle Officer to record reasons, if any, for



delay in the order-sheet of the case records subject to scrutiny by the Collector of the district in the prescribed manner. Section 15 states that onus for delay in disposal of mutation case shall lie with the official concerned responsible for such delay. For quick reference, said provisions are being reproduced hereinbelow :-

“14. Reasons to be recorded for delay in disposal of mutation petitions.— In cases where mutation petitions have not been disposed of within the time limit provided under the foregoing sections, the Circle Officer shall record reasons for the delay in the order-sheet of the case-record which will be subject to scrutiny by the Collector of the District in the prescribed manner.

15. Liability for delay in disposal.— The onus for the delay in the disposal of mutation cases shall lie with the official concerned responsible for such delay.”

Bihar Right to Public Services Act, 2011 (Act 4 of 2011) :-

Bihar Right to Public Services Act, 2011 (hereinafter referred to as ‘the Public Services Act’) has been enacted to provide for delivery of notified public services to the people of



the State within the stipulated time limit and for the matters connected therewith. The essential purpose behind the Public Services Act is that the 'notified public services' are delivered to the people within stipulated time, i.e., the maximum time prescribed to provide the service by designated public service or to decide the appeal by the appellate authority and reviewing authority. Section 3 of the Public Services Act has empowered the State Government to notify from time to time 'the services', including provisions for fast track services delivery, designated public service, appellate authorities, reviewing authorities, stipulated time limit for the purposes of the Act. Section 4 confers upon a person a right to obtain public service within stipulated time and the authorities to provide such services to the people. Rules have been framed under the said Act, notifying stipulated time limit for different designated public services.

In the present proceeding, I am not concerned with other items since I am dealing with matters relating to lands covered under various Acts as noted above.

Mutation is one of the items and it reiterates the time limit prescribed under the Land Mutation Act, as noted above (Item No.16). It also covers land possession certificate to be



issued within the time limit prescribed.

A person, whose application for providing public services under the Act is rejected or has not been provided the service within the stipulated time limit, can file an appeal to the appellate authority within 30 days from the date of rejection of the application or the expiry of the stipulated time limit. The appellate authority has been conferred with the power to direct the designated public servant to provide the service within the specified time or reject the appeal. Consequences of not providing public service has been prescribed under Section 7 of the Public Services Act, which reads as follows :-

“7. Penalty.— (1)(a) Where the Appellate Authority is of the opinion that the Designated Public Servant has failed to provide service without sufficient and reasonable cause, then he/she may impose a lump sum penalty at the rate specified from time to time as prescribed in the rules framed under this Act from time to time.

(b) Where the Appellate Authority is of the opinion that the Designated Public Servant has caused delay in providing the service, then he/she may impose a penalty at the rate specified from time to time and as prescribed in the rules framed under this Act from time to time for such delay on the Designated Public Servant:



Provided that the Designated Public Servant shall be given a reasonable opportunity of being heard before any penalty is imposed on him/her.

(2) Where the Reviewing Authority is of the opinion that the Appellate Authority has failed to decide the appeal within the stipulated time limit without any sufficient and reasonable cause, then he/she may impose a penalty on Appellate Authority at the rate specified from time to time and as prescribed in the rules framed under this Act:

Provided that the Appellate Authority shall be given a reasonable opportunity of being heard before any penalty is imposed on him/her.

(3) The penalty as imposed under the above provisions of the Act shall be charged from the Designated Public Servant, Appellate Authority and concerned Subordinate staff as the case may be, and in the proportion to be decided by the Appellate or Reviewing Authority, as the case may be, and as prescribed in the Rules framed under this Act from time to time.

(4) The penalty so imposed will be in addition to that prescribed in any other Act, rules, regulations and notifications already existing.”

Section 8 of the Public Services Act declares that non-compliance of the orders of the appellate authority, unless



pending in the second appeal or modified by the reviewing authority, shall amount to misconduct and such person shall be liable to actions including disciplinary action.

These provisions have been made apparently to ensure that the people of the State do not have to rush to the Courts and run from pillar to post for redressal of their grievance which are capable of being redressed by the State administration within statutory time limit.

Bihar Right to Public Grievance Redressal Act,
2015:-

It appears to the Court that all the aforesaid provisions were not considered adequate for the functionaries under the State of Bihar to awake and address grievances of the people covered under various enactments, as noted above, which led to enactment of another Act in the name of Bihar Right to Public Grievance Redressal Act, 2015 (hereinafter referred to as 'the Public Grievance Redressal Act'). The said Act recognizes the right of redressal of grievance of the citizen on a complaint within stipulated time limit and right to get information about decision made on their complaint, as a statutory right. 'Complaint' has been defined under sub-Section (a) of Section 2, which reads thus :-



“(a) "complaint" means any application made by a citizen or a group of citizens to a Public Grievance Redressal Officer for seeking any benefit or relief relating to any schemes, programme or services run in the State by the State Government or in respect of failure or delay in providing such benefit or relief, or regarding any matter arising out of failure in the functioning of, or violation of any law, policy, service, programme or scheme in force in the State by a public authority but does not include grievance relating to the service matters of a public servant, whether serving or retired, or relating to any matter in which any Court or Tribunal has jurisdiction or relating to any matter under Right to Information Act, 2005(Central Act No. 22 of 2005) or services notified under the Bihar Right to Public Services Act, 2011”

On close reading of the definition of the ‘complaint’, it can be easily seen that it means any application made by a citizen or a group of citizens to a Public Grievance Redressal officer for seeking for benefits or relief relating to, :-

(i) any schemes, programme or services run in the State by the State Government or

(ii) in respect of failure or delay in providing such benefit or relief, or

(iii) regarding any matter arising out of failure in the



functioning of, or violation of any law, policy, service, programme or scheme in force in the State,

by a public authority.

Following matters are, however, excluded :-

(i) grievance relating to the service matters of a public servant, whether serving or retired, or

(ii) relating to any matter in which any Court or Tribunal has jurisdiction or

(iii) relating to any matter under Right to Information Act, 2005 or

(iv) Services notified under Bihar Right to Public Services Act, 2011.

Public authority has been defined under Section 2(e) of the Public Grievance Redressal Act as the State Government and its Departments and includes any authority, body or institution, established or constituted by order under any law made by the State Legislature. A complaint raising any grievance covered under Public Grievance Redressal Act can be made before the Public Grievance Redressal officer notified under the Act, who is obliged to pass appropriate orders after giving the complainant and others an opportunity of hearing.



Section 6 of the Public Grievance Redressal Act provides for establishment of Information and Facilitation Centers for the purpose of efficient and effective redressal of the grievance of the people and to receive complaints under the Act. There is forum for appeal, second appeal and revision, if the complainant is not satisfied with the decision taken under the Public Grievance Redressal Act by the authorities.

Section 8 of the Public Grievance Redressal Act provides for penalty on Public Grievance Redressal Officer, other public authorities/1st appellate authority in case they have failed to give an opportunity of hearing and redressal without any sufficient and reasonable cause.

I have summarily dealt with various enactments, as noted above, enacted apparently for the benefit of the people of the State of Bihar so as to facilitate smooth redressal of their grievances within stipulated time. The wish of the Legislature, as disclosed in Acts of the Legislature, is the wish of the people. Despite all these enactments, the litigants are still approaching this Court under Article 226 of the Constitution of India, in many of the cases, seeking a direction merely to dispose of matters which are pending before the authorities, who fall within the definition of Public Authority under Section 2(e) of



the Public Grievance Redressal Act.

Since so many Acts have been enacted to take care of almost each and every grievance of the people of the State of Bihar for redressal of their grievances, in my view, ordinarily they should approach this Court only after having exhausted their remedy under the above mentioned Acts.

It is trite that existence of an alternative remedy is not a bar for this Court to entertain a writ application under Article 226 of the Constitution of India, but it is always prudent that the parties approach competent authorities under the State within the meaning of under Article 12 of the Constitution of India for redressal of their grievances first before approaching this Court by invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

As I have already discussed above, right to public services under the Right to Public Services Act and Right to Public Grievance Redressal Act are such rights, which have been given statutory character with the enactments of these Acts. Right to receive public service and right to get the grievances redressed having become statutory in nature and as statutory remedies have been provided within statutory stipulated time, there is no reason why a person should approach



this Court in writ jurisdiction without availing alternative statutory remedies under the aforesaid enactments, unless an exceptional circumstance is made out for this Court to step in invoking wide powers under Article 226 of the Constitution of India.

Coming now to the case of the petitioner, her grievance relates to boundary dispute, which falls under Section 4(1)(h) of the Land Disputes Resolution Act. It is evident from the pleadings in the writ application that after issuance of notice for measurement of land in question, the petitioner did nothing and straightway approached this Court invoking the writ jurisdiction, by filing the present application. The petitioner has statutory alternative remedy available, which she can avail, in accordance with law.

This application is thus disposed of with the observation that the petitioner shall be at liberty to approach competent authority under the appropriate provision of law as indicated above for redressal of her grievance.

(Chakradhari Sharan Singh, J.)

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