

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8918 of 2019

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Mahanth Yogendra Ram Das Son of Late Dhunmun Ram Resident of Villate-Chainpur Mobarakpur, P.O.-Chainpur Mobarakpur, P.S.-O.P. Chainpur Via Sisawan, District-Siwan

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna
2. the Collector, Siwan
3. The Additional Collector, Siwan
4. The Sub-Divisional officer, Sub-Division, District-Siwan.
5. The Deputy Collector Land Reforms, Siwan, District-Siwan
6. The Circle officer, Sisawan Circle, At and P.O. P.S.-Sisawan, District-Siwan

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. M.N. Prabhat, Senior Advocate Mr.Ved Prakash Srivastva Mr. Praveen Prabhakar, Advocates
For the State	:	Mr.Raj Kishore Roy (Gp-18)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 26-04-2019 Heard the learned counsel for the parties.

This writ application has been filed, seeking quashing of a notice issued by the Circle Officer, Sisawan dated 14.11.2017, whereby he has been directed to produce the relevant documents before him for consideration as to how the *Jamabandi* in his name has been created in respect of the land, description of which has been given in the notice itself. It has been indicated in the said notice that if the petitioner failed to produce the documents, the Circle Officer would recommend for cancellation of *Jamabandi*. The notice was issued on



14.11.2017. Subsequent notices were also issued to the petitioners in this regard, it appears from the record.

Mr. Parbat, learned Senior counsel, appearing on behalf of the petitioner, has stated that the petitioner has chosen to question the competence of the Circle Officer to issue such notices, instead of responding to them. The fact remains that till date the petitioner has not responded to the notice issued by the Circle Officer. The petitioner has instead filed an application before the Deputy Collector Land Reforms, Siwan against issuance of notice of the Circle Officer. Mr. Parbat, in support of his contention that the Circle Officer has no jurisdiction to issue such notice, has relied on the provision under Section 9(1) of the Bihar Land Mutation Act, 2011(for short 'the Act'), which reads thus:-

“9(1) Cancellation of Jamabandi. _ (1) The Additional Collector, either *suo motu* or on an application, shall have the power to make inquiries in respect of any Jamabandi, which has been created in violation of any law for the time being in force or in contravention of any executive instruction issued in this behalf. The Additional collector, in whose jurisdiction the land is situated, may, after giving reasonable opportunity to the parties concerned to appear, adduce evidence and be heard, cancel such Jamabandi, dispossess the person claiming under it and deliver the possession to the legitimate owner/custodian,



on such terms as may appear to the Additional Collector to be fair and equitable.”

Referring to the said provision, he has submitted that the power of cancellation of *Jamabandi* exclusively vests in the Additional Collector and the Circle Officer could not have issued the notice, which has been issued to him.

It is evident on a plain reading of Section 9(1) of the Act that the Additional Collector can exercise his power of cancellation of mutation either *suo motu* or on an application made by a party. In the present case, from the notice of the Circle Officer, it appears that there were some representations filed under Bihar Right to Public Grievance Redressal Act, 2015, questioning the mutation in favour of the petitioner. The Circle Officer by the impugned notice dated 14.11.2017, had merely asked the petitioner to furnish the documents so as to justify the circumstance in which the mutation was created in his favour.

It is evident from the notice of the Circle Officer that he has not initiated any proceeding for cancellation of *Jamabandi*. He has rather indicated that if the petitioner failed to furnish the documents, he would be making recommendation to the Additional Collector for cancellation of *Jamabandi*.



The power of the Additional Collector to proceed *suo motu* for cancellation of *Jamabandi* can be based on any material available before him, in the absence of any application by a party. The expression '*suo motu*' means on its own motion, without any application of a party. It is open for the Additional Collector to proceed or not to proceed on the recommendation of the Circle Officer, if he makes any. If the Additional Collector exercises the power on the basis of any recommendation made by any official/authority or any material available before him, he will be exercising such power *suo motu* under Section 9(1) of the Act.

This writ application, in my view, is misconceived, premature and deserves to be dismissed. I order accordingly.

The delay of more than one and half years in challenging the notice issued in 2017 has no explanation in the writ application. This is an additional reason why this writ application deserves to be dismissed at this stage itself.

(Chakradhari Sharan Singh, J)

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