

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11947 of 2017

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Jainarayan Rai Son of Janak Rai, Resident of Village- Kanunia, P.O.-
Gamhariya Khurd, P.S.- Adapur, District- East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Collector, Motihari East Champaran.
3. The Sub Divisional Officer S.D.O. Raxaul, East Champaran.
4. The Circle Officer, Adapur, East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vijay Shankar Shrivastava, Advocate
For the Respondent/s	:	Mr.Rishi Raj Sinha , SC-19
		Mr. Birendra Pd. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 14-05-2019 Heard learned counsel for the petitioner and the

State.

The petitioner is aggrieved by arbitrary and discriminatory action of the respondents in taking action for removal of encroachment over the public land.

Learned counsel for the petitioner was picked up by the Circle Officer, Adapur, East Champaran and in encroachment proceeding the respondent-Circle Officer passed the order for removal of encroachment, whereas similarly circumstanced others have been favoured by the Circle Officer and no proceeding was drawn against those similarly circumstanced like the petitioner.



The petitioner has grievance only against the discriminatory action of the respondents. The respondents were granted time to file counter affidavit but no counter affidavit has been filed.

Under the aforesaid circumstances, the Court is of the view that encroachment is encroachment and in the matter of removal of encroachment the State authorities cannot adopt pick and choose method which is per se violation of Article 14 of the Constitution of India. Since the allegation of the petitioner as to discrimination in the matter of removal of encroachment has not been disputed by the respondents by way of filing counter affidavit, the Court is constrained to direct the respondent-Circle Officer, Adapur, East Champaran, to register a case of encroachment against all encroachers over the public land and shall take steps for removal of the encroachment.

In the peculiar facts of the case, the Court grants indulgence to the petitioner to file appropriate application for removal of encroachment before the Circle Officer, Adapur, East Champaran indicating therein the details of the encroachers, who have made encroachment over the public land and thereafter the Circle Officer shall issue notice to all concerned, who have encroached over the public land and after



hearing them as well as the petitioner, the Circle Officer shall pass order for removal of the encroachment. The entire exercise in this regard must be completed by the Circle Officer, Adapur, East Champaran within a maximum period of six months from the date of filing of the application along with a copy of this order.

With the aforesaid, the present writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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