

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2683 of 2017

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Ramashish Mallah Son of Sri Jaikisun Mallah, Resident of Village-and P.O.-
Kudwan, Block-Goh, District Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Fishery Officer, Fishery Department,
Aurangabad
2. District Fishery Officer, Aurangabad
3. District Collector, Aurangabad
4. Deonandan Choudhary, Son of Late Ramlal Choudhary, Resident of Village-
and P.O.-Kudwan, Block-Goh, District Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Madhuri Kumari
For the State	:	Mr.Subhash Chandra Yadav-GP-15
		Mr. Sangha Mitra Ghosh, AC to GP 15

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 18-04-2019 Despite valid service of notice on respondent no.4, he
has not chosen to appear.

A counter affidavit has been filed on behalf of the
State-respondent nos. 2 and 3.

The petitioner has put to challenge an order dated
03.10.2016, passed by the District Fishery Officer, Aurangabad,
whereby he has cancelled the agreement for settlement of
Madar River, Kudwan in Goh Block of Aurangabad district.
The petitioner has also sought for cancellation of the agreement
for the settlement of the said river with respondent no.4.

From the impugned order dated 03.10.2016, it



transpires that the *Jalkar* was settled in favour of the petitioner for the period 2012-13 to 2018-19. It is alleged in the notice that the petitioner did not deposit the revenue for the period 2015-16 and 2016-17 in violation of the provisions under the Bihar Jalkar Management Act, 2006 (for short 'the Act of 2006'). It has also been mentioned in the said letter that despite repeated reminders sent to the petitioner, he did not deposit the revenue required to be deposited. The impugned letter, however, does not disclose that before issuance of it, any notice was given to the petitioner, disclosing intention of the competent authority to cancel the settlement and he was asked to submit his explanation, in this regard.

Learned counsel, appearing on behalf of the petitioner, has drawn my attention to Section 6(vii)(d) of the Act of 2006, which requires that in case of any violation of any of the terms of settlement by the beneficiaries, the Collector may cancel the settlement but the beneficiary shall be given an opportunity to be heard before taking such a decision. .

Since there is no denial of the petitioner's specific case that he was not given an opportunity to be heard before the impugned letter was passed, I have no hesitation in reaching a definite conclusion that the action of the respondent in canceling



the settlement in favour of the petitioner is in violation of the mandatory requirement of giving the person an opportunity of hearing, as contemplated under Section 6(vii)(d) of the Act of 2006.

The impugned order dated 03.10.2016 is accordingly set aside. All consequential decisions/orders also stand set aside.

The District Fishery Officer will be at liberty to pass an order afresh after giving the petitioner an opportunity of hearing by issuing notice within one week from date of the present order. The petitioner shall be at liberty to satisfy the District fishery Officer that, though he was ready to deposit the amount, the said amount was not received. The District Fishery Officer shall thereafter pass an order afresh within a period of two months.

This writ application is accordingly allowed with the observation and direction as noted above.

(Chakradhari Sharan Singh, J)

HR/-

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