

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20385 of 2019

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Chitrasen Ojha S/o Late Rajnandan Ojha Resident of Village- Narain, P.O.-
Deohara, p.s.- Goh, distt.- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue Department, Govt. of Bihar
2. The District Magistrate-cum-Collector Aurangabad
3. The Additonal Collector Aurangabad
4. The D.C.L.R. Goh, Distt.- Aurangabad
5. The Circle Officer Goh, Distt.- Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Dubey
For the Respondent/s : Mr.Rishi Raj Sinha (Sc19)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 17-10-2019

1. The present writ petition has been filed for quashing the notice dated 18.09.2019 issued by the Circle Officer, Goh, Aurangabad under Section 5(1)(c) of the Bihar Public Land Encroachment Act, 1956 whereby and whereunder, the petitioner has been directed to remove the encroachment in question.

2. It is the submission of the learned counsel for the petitioner that under Section 5(1)(c) of the Act, 1956, there is no provision for issuing direction for removal of encroachment or passing any order.

3. This Court is of the opinion that the Circle Officer



is required to pass the final orders under Section 6(1) of the Act, 1956 and only then, a notice under Section 6(1)(2) of the Bihar Public Land Encroachment Act, 1956 can be issued for the purpose of removal of the encroachment in question.

4. Having regard to the facts and circumstances of the case, the present writ petition stands allowed and the notice dated 18.09.2019 issued by the Circle Officer, Goh, Aurangabad is quashed, however with liberty to the Circle Officer to pass final orders under Section 6(1) of the Act, 1956 in the ongoing encroachment case no. 1 of 2019-20, after considering the objections already filed by the petitioner herein before the said Circle Officer and after giving an opportunity to the petitioner to lead evidence, in case the petitioner so deems it proper. However, it is clarified that if no evidence is led within a period of four weeks from today, the aforesaid opportunity granted to the petitioner, shall stand forfeited and the Circle Officer, Goh, Aurangabad shall be free to pass final orders, as aforesaid.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.10.2019
Transmission Date	NA

