

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23678 of 2019

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Vishal Kumar @ Vishal Kumar 'Bittu' S/o Shivnandan Pd. Gupta, R/o
Bhartiya Nagar, Batharaha, Ward No. 27, Police Station- Saharsa, District-
Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home Department,
Government of Bihar, Old Secretariat Building, Patna.
2. The District Magistrate, Saharsa.
3. The Anchal Adhikari/Circle Officer, Kahra, Saharsa.
4. The Anumandal Dandadhikari/Sub-Divisional Magistrate, Sadar, Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ambuj Nayan Chaubey, Advocate Mr. Srijan Jha, Advocate Mr. Amit Kumar, Advocate Mr. Sanjay Kr. Singh, Advocate
For the Respondent/s	:	Md. Irshad, A.C. to S.C.I

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 29-11-2019

Heard learned counsel for the parties.

2. The petitioner claims to be the Chairman of the *Sai Chakar Samiti, Sai Dham, Naya Bazar, Saharsa*. He has assailed on order dated 24.09.2019 passed by the Circle Officer, Saharsa, whereby he has found construction of a temple on a public land to be an unauthorized encroachment within the meaning of 'Bihar Public Land Encroachment Act, 1956' (hereinafter referred to as the 'Act'). A notice has been issued by the Circle Officer under Sub Section (2) of Section 6 of the Act.

3. Learned counsel appearing on behalf of the petitioner assailing the impugned order has submitted that in compliance of



certain orders passed by the *Supreme Court in SLP (C) 8519 of 2006, Union of India Vrs. State of Gujarat and Others*, the State Government has framed the unauthorised religious structures survey and passed regularization/re-location and Removal Rules, 2013. Rule 4 of which, contemplated regularization of such religious structures on public places which are more than 30 years old. According to him, the temple in question is more than 50 years and, therefore, Rule 4 of the Rules is attracted.

4. Learned counsel for the petitioner has however not been able to satisfy the Court that the impugned order/notice is in contravention of any provision under the Act. However, Section 11 of the Act provides for an appeal before the Collector of the District which, the petitioner has apparently not availed.

5. No interference is required at this stage by this Court with the impugned order.

6. The petitioner shall be at liberty to approach the Collector of the District under Section 11 of the Act by filing appeal.

7. This writ application is, accordingly, disposed of.

(Chakradhari Sharan Singh, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04/12/2019
Transmission Date	N.A.

