

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13375 of 2021

1. Ajay Kumar Singh, Son of Late Braj Bhushan Singh Resident of Village - Chapar Jorawar, Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
2. Vijay Singh son of Late Shankar Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
3. Arun Singh Son of Late Meghan Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
4. Brijbeni Singh Son of Late Baleshwar Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
5. Bahadur Singh Son of Late Rajendra Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
6. Triveni Singh Son of Late Sita Ram Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
7. Vimal Singh Son of Late Anandu Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
8. Ram Naresh Singh Son of Late Ram Nhajan Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
9. Ajit Singh Son of Late Shiv Badan Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
10. Kamlesh Singh Son of Late Sarovar Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
11. Kedar Singh Son of Sakaldev Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
12. Ramesh Singh Son of late Kedar Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
13. Santosh Singh Son of Late Suresh Prasad Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
14. Prabhat Singh Son of late Ram Nagina Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
15. Nand Kishore Singh Son of Late Dilip Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
16. Ganga Ram Singh Son of Late Parmanand Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
17. Shambhu Nath Singh Son of late Ram Lagan Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
18. Ramayan Singh Son of Late Ram lagan Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
19. Manoj Kumar Singh Son of Late Vinod Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
20. Kaushal Singh Son of Late Triveni Singh Resident of Village and Post

Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.

21. Yugal Singh Son of Late Raghuwansh Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
22. Vijay Singh Son of late Anandi Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
23. Ajay Singh Son of Late Saryug Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
24. Sudhir Singh Son of late Satish Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
25. Ashok Singh Son of Late Nanhak Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
26. Badrinath Singh Son of Late Bind Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
27. Tarkeshwar Singh Son of Late Khakho Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
28. Mukesh Kumar Singh Son of Late Kameshwar Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
29. Chedi Singh Son of late Baijnath Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
30. Ramakant Singh Son of late Ram Dihk Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
31. Surendra Singh Son of Late Ram Jas Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
32. Arjun Singh Son of Late Tej Narayan Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
33. Santosh Singh Son of Late Subedar Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
34. Jagdish Singh Son of Late Ramanand Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
35. Pawan Singh Son of Haribansh Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
36. Parmans Singh Son of Late Surya Narayan Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
37. Devdatt Singh Son of Late Ram Ayoudhya Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
38. Ravi Shankar Singh Son of Late Hardev Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
39. Ashwani Singh Son of Late Tirpit Narayan Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
40. Arvind Singh Son of Late Ram Chandar Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
41. Sanjay Singh Son of Late Ram Ashish Singh Resident of Village and Post

Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.

42. Sitaram Singh Son of late Sonelal Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
43. Karu Singh Son of Late Vishwnath Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
44. Braj Bhushan Singh Son of late Chanar Dip Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
45. Hareram Singh Son of Late Opindar Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
46. Jitendra Singh Son of Late Kailash Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
47. Mukesh Kumar Singh Son of Late Tribeni Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
48. Mithilesh Prasad Singh Son of Late Ram Kumar Singh @ Ram Dayal Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
49. Ajay Kumar Singh Son of Late Kamaldev Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
50. Lalan Singh Son of Late Dina Nath Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
51. Hari Narayan Singh Son of Late Sirwan Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
52. Sunil Kumar Singh Son of Late Raghubansh Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
53. Dinesh Singh Sion of late Ramjas Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
54. Akhilesh singh Son of Late Ganga Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
55. Angad Pandey Son of Late Ramesh Pandey Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
56. Sitaram Singh Son of Late Dr. Ramchandra Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
57. Siyaram Singh Son of Late Dr. Ramchandra Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
58. Phekan Singh Son of Late Raj Balmal Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
59. Birendra Singh Son of Late Madan Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
60. Sanjay Singh Son of Ram Naresh Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
61. Vijay Singh Son of Late Baleshwar Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
62. Phulkant Singh Son of Late Kuleshwar Singh Resident of Village and Post

Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.

63. Kapildeo Singh Son of Late Nathuni Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
64. Dinesh Singh Son of Late Lal Bahadur Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
65. Nand Kumar Singh Son of late Ramanand Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
66. Yougal Singh Son of Late Shivji Singh Resident of Village and Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
67. Jag Mohan Singh Son of Late Rama Nand Singh Resident of Village - Chapar Jorawar (Tola Tingharwa), Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
68. Abhimanu Singh Son of Late Arjun Singh Resident of Village - Chapar Jorawar (Tola Tingharwa), Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
69. Suchit Singh Son of Late Joyti Singh Resident of Village - Chapar Jorawar (Tola Tingharwa), Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
70. Satyadeo Singh Son of Ramnomi Singh Resident of Village - Chapar Jorawar (Tola Tingharwa), Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
71. Ramfal Singh Son of Upendra Singh Resident of Village - Chapar Jorawar (Tola Tingharwa), Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
72. Vishwjeet Singh Son of Ram Sagar Singh Resident of Village - Chapar Jorawar (Tola Tingharwa), Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
73. Sharwan Singh Son of lakhan Singh Resident of Village - Chapar Jorawar (Tola Tingharwa), Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
74. Rajdeo Singh Son of Agindeo Singh Resident of Village - Chapar Jorawar (Tola Tingharwa), Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
75. Satyadev Singh Son of Awadh Singh Resident of Village - Aanandgolwa, Post Office - Harail, Post Station- Mohiuddin Nagar, District- Samastipur.
76. Ram Bhawan Singh Son of Hare Kishun Singh Resident of Village - Aanandgolwa, Post Office - Harail, Post Station- Mohiuddin Nagar, District- Samastipur.
77. Tarkeshwar Singh Son of Feku Singh Resident of Village - Aanandgolwa, Post Office - Harail, Post Station- Mohiuddin Nagar, District- Samastipur.
78. Dinesh Singh Son of Devendra Singh Resident of Village - Aanandgolwa, Post Office - Harail, Post Station- Mohiuddin Nagar, District- Samastipur.
79. Anirudh Singh Son of Rangilal Singh Resident of Village - Aanandgolwa, Post Office - Harail, Post Station- Mohiuddin Nagar, District- Samastipur.

80. Radhe Shyam Singh Son of Prem Singh Resident of Village - Aanandgolwa, Post Office - Harail, Post Station- Mohiuddin Nagar, District- Samastipur.
81. Hari Shankar Singh Son of Ram Narayan Singh Resident of Village - Aanandgolwa, Post Office - Harail, Post Station- Mohiuddin Nagar, District- Samastipur.
82. Arjun Singh Son of Basdev Singh Resident of Village - Aanandgolwa, Post Office - Harail, Post Station- Mohiuddin Nagar, District- Samastipur.
83. Bhola Singh Son of Harihar Singh Resident of Village - Aanandgolwa, Post Office - Harail, Post Station- Mohiuddin Nagar, District- Samastipur.
84. Sajjan Singh Son of Sambhu Singh Resident of Village - Aanandgolwa, Post Office - Harail, Post Station- Mohiuddin Nagar, District- Samastipur.
85. Nand Kishore Singh Son of Late Dilip Singh Resident of Village - Chapar, Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
86. Balmiki Singh Son of late Dilip Singh Resident of Village - Chapar, Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
87. Arun Singh Son of Vishwanath Singh Resident of Village - Chapar, Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
88. Navin Kumar Singh Son of Vijay Singh Resident of Village - Chapar, Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
89. Pawan Singh Son of Uday Singh Resident of Village - Chapar, Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
90. Onkar Singh Son of Late Triveni Singh Resident of Village - Chapar, Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
91. Pintu Singh Son of Shivjee Singh Resident of Village - Chapar, Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
92. Guru Sahay Singh Son of Late Shrivani Singh Resident of Village - Chapar, Post Office - Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.
93. Ram Pravesh Singh Son of Late Vishnudeo Singh Resident of Village - Aanandgolwa, Post Office - Harail, Police Station- Mohiuddin Nagar, District- Samastipur.
94. Jagarnath Singh Son of Late Vishnudeo Singh Resident of Village- Aanandgolwa, (Chapar), Post Office - Harail, Police Station- Mohiuddin Nagar, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Secretary - Cum - Commissioner, Department of Revenue and Land Reforms, Bihar, Patna.
4. The Director, Directorate Land Records and Measurement, Revenue and Land Reforms Department, Government of Bihar, Patna.
5. The Commissioner, Darbhanga Division, Darbhanga.
6. The Collector, Samastipur, District- Samastipur.

7. The Additional Collector, Samastipur.
8. The Land Reforms Deputy Collector, Patori, District- Samastipur.
9. The Circle Officer, Mohiuddin Nagar, Samastipur.
10. The Deputy Director, Bihar Survey Office, Gulzarbagh, Settlement Officer, Samastipur In - Charge Officer, Samastipur, Assistant Settlement Officer, Samastipur.

Respondent 1st set.

Respondent 2nd set.

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Pandey, Advocate,
Mr. Amit Kumar, Advocate
Mr. Amit Kashyap, Advocate
For the Respondent/s : Mr.Md. Khurshid Alam (AAG-12)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 10-08-2021

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s).

- “(a) Respondents be commanded to get a scientific up to date Survey of Lands in the Mouza- Araz Barari Chapar, Thana No. 189 and Mauza- Balagachh, Thana No. 191 in the District of Samastipur by appointing / deputing a competent batch of Surveyors of officials.
- (b) The preparation of Khata Pushtika in the District of Samastipur of the Mauza- Araz Barari Chapar, Thana No. 189 and Mauza- Balagachh, Thana No. 191 may kindly be suspended till the conclusion of the Survey operation and final publication of Khata (Records of Right) Survey Map.
- (c) Rules 4 and 5 of the Tenants Holdings (Maintenance of Records) Rules may kindly be passed.
- (d) The respondents be restrained forthwith from generating litigation and dispute between the villagers by hurriedly preparing Khata Pushtika L.P.C. of Rent Receipts with the aid of such incompetent class III public servants who are not even trained for the job allotted to them or be pleased to grant such other relief/reliefs to which the petitioners may be deemed entitled too.”

The Hon'ble Supreme Court in ***D. N. Jeevaraj Vs.***

Chief Secretary, Government of Karnataka & Ors, (2016) 2

SCC 653, paragraphs 34 to 38 observed as under:-

“34. The learned counsel for the parties addressed us on the question of the bona fides of Nagalaxmi Bai in filing a public interest litigation. We leave this question open and do not express any opinion on the correctness or otherwise of the decision of the High Court in this regard.

35. However, we note that generally speaking, procedural technicalities ought to take a back seat in public interest litigation. This Court held in *Rural Litigation and Entitlement Kendra v. State of U.P.* [*Rural Litigation and Entitlement Kendra v. State of U.P.*, 1989 Supp (1) SCC 504] to this effect as follows: (SCC p. 515, para 16)

“16. The writ petitions before us are not inter parties disputes and have been raised by way of public interest litigation and the controversy before the court is as to whether for social safety and for creating a hazardless environment for the people to live in, mining in the area should be permitted or stopped. We may not be taken to have said that for public interest litigations, procedural laws do not apply. At the same time it has to be remembered that every technicality in the procedural law is not available as a defence when a matter of grave public importance is for consideration before the court.”

36. A considerable amount has been said about public interest litigation in *R&M Trust* [*R&M Trust v. Koramangala Residents Vigilance Group*, (2005) 3 SCC 91] and it is not necessary for us to dwell any further on this except to say that in issues pertaining to good governance, the courts ought to be somewhat more liberal in entertaining public interest litigation. However, in matters that may not be of moment or a litigation essentially directed against one organisation or individual (such as the present litigation which was directed only against Sadananda Gowda and later Jeevaraj was impleaded) ought not to be entertained or should be rarely entertained. Other remedies are also available to public spirited litigants and they should be encouraged to avail of such remedies.

37. In such cases, that might not strictly fall in the category of public interest litigation and for which other remedies are available, insofar as the issuance of a writ of mandamus is concerned, this Court held in *Union of India v. S.B. Vohra* [*Union of India v. S.B. Vohra*, (2004) 2 SCC 150: 2004 SCC (L&S) 363] that: (SCC p. 160, paras 12-13)

“12. Mandamus literally means a command. The essence of mandamus in England was that it was a royal command issued by the King's Bench (now Queen's Bench) directing performance of a public legal duty.

13. A writ of mandamus is issued in favour of a person who establishes a legal right in himself. A writ of mandamus is issued against a person who has a legal duty to perform but has failed and/or neglected to do so. Such a legal duty emanates from either in discharge of a public duty or by operation of law. The writ of mandamus is of a most extensive remedial nature. The object of mandamus is to prevent disorder from a failure of justice and is required to be granted in all cases where law has established no specific remedy and whether justice despite demanded has not been granted.”

38. A salutary principle or a well-recognised rule that needs to be kept in mind before issuing a writ of mandamus was stated in *Saraswati Industrial Syndicate Ltd. v. Union of India* [*Saraswati Industrial Syndicate Ltd. v. Union of India*, (1974) 2 SCC 630] in the following words: (SCC pp. 641-42, paras 24-25)

“24. ... The powers of the High Court under Article 226 are not strictly confined to the limits to which proceedings for prerogative writs are subject in English practice. Nevertheless, the well-recognised rule that no writ or order in the nature of a mandamus would issue when there is no failure to perform a mandatory duty applies in this country as well. Even in cases of alleged breaches of mandatory duties, the salutary general rule, which is subject to certain exceptions, applied by us, as it is in England, when a writ of mandamus is asked for, could be stated as we find it set out in *Halsbury's Laws of England* (3rd Edn.), Vol. 11, p. 106:

‘198. *Demand for performance must*

precede application.—As a general rule the order will not be granted unless the party complained of has known what it was he was required to do, so that he had the means of considering whether or not he should comply, and it must be shown by evidence that there was a distinct demand of that which the party seeking the mandamus desires to enforce, and that that demand was met by a refusal.’

25. In the cases before us there was no such demand or refusal. Thus, no ground whatsoever is shown here for the issue of any writ, order, or direction under Article 226 of the Constitution.”

After the matter was heard for some time, learned counsel for the petitioners, under instructions, states that petitioners shall be content if a direction is issued to the authority concerned to consider and decide the representation which the petitioners shall be filing within a period of four weeks from today for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioner, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of three months from the date of its filing along with a copy of this order.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioners shall approach the authority concerned within a period of four weeks from today by filing a representation for redressal of the grievance(s);

(b) The authority concerned shall consider and dispose it of expeditiously by a reasoned and speaking order preferably within a period of three months from the date of its filing along with a copy of this order;

(c) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(d) Equally, liberty is reserved to the petitioners to take recourse to such alternative remedies as are otherwise available in accordance with law;

(e) We are hopeful that as and when petitioners take recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(f) Liberty reserved to the petitioners to approach the Court, if the need so arises subsequently on the same

and subsequent cause of action;

(g) Liberty also reserved to the petitioners to make a mention for listing of the petition on priority basis. As and when any such mention is made, Registry shall take steps for listing the petition at the earliest.

(h) We have not expressed any opinion on merits.
All issues are left open;

(i) The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

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