

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3656 of 2023

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Dhananjay Prasad Sinha S/o Narmadeshwar Prasad Sinha Resident of
Village- Eroura, P.O.- Eroura, P.S.- Dev Eroura, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Development Department, State of Bihar, Patna.
2. The District Magistrate, Aurangabad.
3. The Deputy Development Commissioner, Aurangabad.
4. The Circle Officer, Block Dev, Aurangabad.
5. The Block Development Officer, Block Dev, Aurangabad.
6. The Director, D.R.D.A., District- Aurangabad.
7. The Awas Supervisor (Gramin), Block -Dev, Dulare, District- Aurangabad.
8. The Awas Sahayak, Gram Panchayat, Dulare, Block -Dev, Dulare, District- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashank Shekhar Jha, Adv
For the Respondent/s : Mr. Vinay Kirti Singh (Ga2)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 26-09-2023 Heard learned counsel for the petitioner and the

learned counsel for the State.

2. Counsel for the petitioner has filed this writ petition
praying for directing the respondents for cancellation of all
allocation with regard to the petitioner's *Raiyati* land which has
been allotted to 42 landless persons for construction of houses
with the help of the Respondents State.

3. The further prayer has been made that the
respondents be directed to follow the rules of Mukhyamantri



Awas Asthal Kray Sahayata Yojna (M.M.W.A.K.S.Y.)
(Hereinafter referred to as the 'MMWAKSY') for purchasing the
land for landless person.

4. The further prayer has been made to pay the
compensation amount for allocation of land to 42 landless
persons for construction of houses on *Raiyati* land of the
petitioner and his family members.

5. Counsel for the petitioner submits that the land of
the petitioner is situated at Gram Panchayat Dulare, Block Deo,
District Aurungabad, Thana No. 959, Mauza- Bara, Khata No.
03, Khesra No. 26, 27, 28, 45 and 69 total area of 11.64 Acre.
Counsel for the petitioner further submits that the said land
belongs to the petitioner as their *Khatiyani* land for which rent
receipts were issued and land possession certificate has also
been granted in his favour.

6. Counsel for the petitioner submits that a letter has
been issued from Block Development Officer, Deo to the Circle
Officer, Deo and according to which the beneficiaries under
Prime Minister Awas Yojna Gramin (PMAY-G) for the financial
year 2021-22 were identified from Panchayat Dulare where 42
landless beneficiaries were identified whose names are attached
with the said letter (Annexure-2). In response of the said letter,



the Circle Officer, Deo has intimated to him that in the said village, Government land is not available and therefore, under MMWAKSY land of the petitioner and his family members were identified.

7. In this regard, a letter No. 788 dated 06.07.2022 (Annexure 4) has been communicated to the Block Development Officer. On the basis of said letter, the Block Development Officer, Deo has made correspondence with Deputy Development Commissioner, Aurangabad vide his letter no. 620 dated 21.06.2022 (Annexure-5) and sought permission to provide land in MMWAKSY. In that light, BDO, Deo issued letter to the Circle Officer, Deo to proceed further for preparation of agreement between the beneficiaries and the land holder.

8. Counsel further submits that in furtherance, thereof, he has prepared 32 agreement papers before the authorities for execution, but instead of the execution of the same, the authorities issued first installment to the said landless persons under the scheme of MMWAKSY for construction of the houses on the petitioner's land and by this action of the Officials, the petitioner became aggrieved and filed writ petition before this Court.



9. Counter affidavit has been filed by the State. In the said Counter affidavit which has been executed by the Block Development Officer, Deo the Block Development Officer, Deo has taken the stand that the landless persons were residing on the said land since last many years, but the petitioners entered into an agreement and started creating disturbance, as such, the payment has been made to the landless persons for construction of the houses on the land in question on which they are residing since long.

10. Counsel for the petitioner raised strong objection on the stand taken by the Block Development Officer, Deo because according to him, on the lands of the petitioner and the family members, *basgit* parcha has been issued in favour of the landless persons and by this action of the State, the petitioner and his family members are at huge loss and not only that, the State has also provided land to the landless persons violating its own promise with the petitioner.

11. In the light of the submissions made by the parties and the pleadings which are full of strong contradictions, this Court is of the opinion that an Officer not below the rank of Additional Collector should hold enquiry in this matter and submit a report to the Collector, Aurangabad and the Collector



Aurangabad is directed to pass an order on the basis of enquiry and also after hearing the grievance of the petitioner within six months from the date of presentation of a copy of this order before him.

12. Upon enquiry, if it has been found in the report of the Circle Officer, Deo that there is no Government land available in that area, the negotiation between Officer and the petitioner took place with the view to implement the MMWAKSY, then he shall proceed to implement the said scheme, if not, then he shall pass a reasoned and speaking order and the petitioner shall be at liberty to challenge the same before the appropriate forum in accordance with law, if aggrieved.

13. With the aforesaid observation and direction this application is disposed of.

(Dr. Anshuman, J)

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