

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3822 of 2017**

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1. Awadhesh Paswan
2. Bashist Paswan, both sons of Late Deo Nandan Ram,
3. Kapil Paswan, Son of Sri Bashist Paswan, All residents of village - Mahawar, P.S. and P.O. Daudnagar and District - Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Aurangabad.
2. The Sub - Divisional Officer, Daudnagar, District Aurangabad
3. The Circle Officer, Daudnagar, District - Aurangabad
4. Nand Kishore Mishra, Son of Late Sheo Nandan Mishra,
5. Kameshwar Mishra son of late Kapileshwar Mishra,  
All residents of village Mahawar, P.S. and P.O. Daudnagar & Dist. Aurangabad.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Shakib Ayaz, Adv.    |
| For the State        | : | Mr.Rishi Raj Sinha-SC19 |

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA**

**ORAL JUDGMENT**

**Date : 30-07-2024**

Heard learned counsel for the parties.

2. In this writ application, the petitioner has prayed  
for following reliefs:-

*“A. For issuance of a writ in the nature of certiorari quashing the order dated 05.10.2016 passed by the Learned Sub-Divisional Magistrate, Daudnagar, District-Aurangabad passed in Miscellaneous Case No.914 of 2016 whereby has directed the Anchladhikari, Daudnagar to cancel the Jamabandi stands in the name of the petitioners (ANNEXURE-3).*



*B. For staying the operation of the order contained in ANNEXURE-3.*

*C. For passing any other order/s, command/s or appropriate writ/s which your lordships deem fit and proper in the facts and circumstances of the instant case.”*

3. At the first instance, learned counsel for the petitioner submits that the order dated 05.10.2016 passed by the learned Sub-Divisional Magistrate, Daudnagar, Dist. Aurangabad in Misc. Case No. 914 of 2016 is without jurisdiction and contrary to law as he cannot create or cancel the Jamabandi of the petitioner. He further submits that under Section 9(1) of the Bihar Land Mutation Act, 2011, the appropriate authority is the Additional Collector who has been empowered to cancel Jamabandi after following the due process of law. Learned counsel for the petitioner accordingly prays for quashing of the aforesaid order dated 05.10.2016 passed by the Sub-Divisional Magistrate, Daudnagar, Dist. Aurangabad.

4. Learned counsel for the State does not contradict the aforesaid submissions of the learned counsel for the petitioners. He also submits that under Section 9(1) of the Bihar Land Mutation Act, 2011, it is the Additional Collector who is empowered to cancel the Jamabandi.

5. Having heard learned counsel for the parties, this



Court finds that the order dated 05.10.2016 passed by the learned Sub-Divisional Magistrate, Daudnagar, Dist. Aurangabad is without jurisdiction and contrary to law and, thus, the same is hereby quashed.

6. The writ petition stands allowed.

**(Rudra Prakash Mishra, J)**

rishi/-

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