

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11231 of 2017

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Raj Kishore Sah @ Raj Kishore Kumar Gupta son of Ram Dhani Sah,
resident of Village- Kushdihra, P.S. Tilauthu, Circle Tilauthu, District Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Collector, Rohtas.
3. The S.D.O. Dehri Rohtas.
4. The D.C.L.R. Dehri, Rohtas.
5. The Circle Officer, Tilauthu District Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh, Advocate
For the Respondent/s : Mr. Dhurjati Kumar Prasad, GP-14

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

ORAL JUDGMENT

Date : 30-07-2024

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner has approached this Court for
quashing the order dated 06-12-2016, passed by the S.D.O.
Dehri Rohtas (respondent No.3), whereby and whereunder he
has cancelled the settlement of the land arising out of Settlement
Case No. 08/2005-06 without giving any opportunity of hearing
to the petitioner and his legal heirs.

3. Brief facts of the case is that petitioner had left his
wife and other three minor children owing to the fact that his
relation with his wife was not good. Thereafter, the wife of the



petitioner, namely, late Shiv Rajo Devi, got settled the land bearing Khata No. 108, Khesara No. 745, admeasuirng area 2 ½ decimal by the order of the S.D.O. Dehri Rohtas (respondent No.3) on 31-12-2005 (Annexure-1) in Land Settlement Case No. 08/2005-06 and on the basis of order dated 31-12-2005, rent was also paid to the State Government.

4. It is further submitted that after the death of the parcha holder i.e., Shiv Rajo Devi, villagers filed a petition for cancellation of the parcha issued in the Land Settlement Case No. 08/2005-06 showing the plea that the dwelling house standing on the aforesaid land in-question has created problem to the persons who wanted to go for worship at the temple.

5. On the basis of public petition filed before the DCLR, Dehri, Rohtas (respondent No.4), an enquiry has been conducted behind the back of the petitioner as well as his minor child and on the basis of the enquiry report, the S.D.O. Dehri, Rohtas (respondent No.3) without even serving the copy of the enquiry report as well as without providing any opportunity of defence either to the petitioner or his minor child, cancelled the parcha issued on the basis of Land Settlement Case No. 08/2005-06 *vide* order dated 06-12-2016 (Annexure-4), which is erroneous in law and required to be interferred by this Court.



6. Learned counsel for the petitioner goes on to submit that at the time of proceedings or passing of the impugned order dated 06-12-2016 (Annexure-4), the petitioner was not present at his village and on the advice of well wishers, the minor son, Amrit Kumar, filed an application for restoration of the parcha arising out of Land Settlement Case No. 08-2005-06 by filing representation dated 01-03-2017 (Annexure-5) before the SDO, Dehri, Rohtas (respondent No.3).

7. Learned counsel for the petitioner thus submits that the impugned order dated 06-12-2016 (Annexure-4) is illegal and unwarranted because it is well settled that once an order has been passed in favour of the person, a right has been created and that right cannot be taken by any of the authority, save and except after proper opportunity of hearing and in the facts of the present case, no opportunity of hearing was given to the petitioner, which is violative of the principles of natural justice.

8. On the other hand, learned counsel appearing for the respondent Nos. 2 to 5 have filed counter affidavit. Referring to paragraph No. 6 of the counter affidavit, it is submitted that in the context the villagers of village Kushdihara filed petition before the DCLR, Dehri, which was sent to Anchal Adhikari, Tilouthu for inquiry and report with regard to the



petition filed for cancellation of the settlement by Case No. 08/2005-06 with Shiv Rajo Devi, wife of the petitioner. On receipt of the report, the LRDC, Dehri, by letter No. 308/R, dated 08-04-2015, directed the Anchal Adhikari to submit a proposal with the recommendation to cancel the said settlement and a report was called for in the matter from the K.C. The K.C. submitted the report to the effect that as per villagers that the said settled land is being used by the villagers for going to the temple situated east of plot No. 745 and there is a pucca well, east of the said plot No.745.

9. It is next submitted that the Anchal Adhikari submitted his report to the LRDC on 09-05-2015 and the LRDC vide order dated 30-09-2015 endorsed the matter to the SDO, Dehri and as per letter dated 06-12-2016, the SDO, Dehri cancelled the settlement, which is annexed at Annexure- A to the counter affidavit.

10. On considering the submissions canvassed on behalf of the parties, it appears that the impugned order dated 06-12-2016 (Annexure-4) requires interference of this Court as it is well settled principle of law that once an order has been passed in favour of the person, a right has been created and that right cannot be taken by any of the authority, save and except



after proper opportunity of hearing. In the factual background of this case, nothing has been done and no opportunity of hearing was afforded to the petitioner, which is violative of the principles of natural justice. The impugned order dated 06-12-2016 (Annexure-4) is unsustainable in the eyes of law and the same is hereby quashed.

11. As a consequence of the quashing of the impugned order dated 06-12-2016 (Annexure-4) passed by the S.D.O. Dehri, Rohtas, petitioner is at liberty to file application before the S.D.O. Dehri, Rohtas, who will afford opportunity of hearing to the parties concerned and shall be under legal obligation to pass a reasoned and speaking order in accordance with law.

12. With the above observation/s and direction/s, the present writ petition is allowed.

(Rudra Prakash Mishra, J)

Raj Kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08-08-2024
Transmission Date	N/A

