

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9976 of 2018

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Sharda Nand Kumar Son of Late Mahanth Sah Resident of Village -
Pachrukhi, Post Office - Pachrukhi, District- Siwan, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reform, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Revenue and Land Reform, Govt. of Bihar, Patna
3. The District Magistrate, Siwan.
4. The Deputy Collector Land Reform, Siwan Sadar.
5. The Circle Officer, Pachrukhi Circle, Pachrukhi, Siwan.
6. Vidya Singh S/o Laye Ramdayal Singh R/o Village- Sadikpur, Police Station- Pachrukhi, District- Siwan,

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Satya Prakash
For the State	:	Mr. Manoj Kumar Sinha, A.C. to S.C. 19
For the Respondent No.6:	:	Mr. Kundan Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 05-12-2024

In the instant petition, petitioner has prayed for the
following relief(s):-

*(i) For issuance of writ in the nature
of certiorari or any other appropriate
writ for quashing of the order dated
06.03.2018, passed in measurement
Appeal No. 01 of 2017-18 by the Court
of Deputy Collector Land Reform,
Siwan whereby and whereunder the
measurement done on 21.12.2017 by
the Circle Amin, Pachrukhi, has been
cancelled and further direction has*



been issued to the Circle Officer for the measurement of the plot in question after issuance of notice to all boundary Raiyats.

(ii) For holding that the measurement report of the plot in question issued by the Anchal Amin on 22.12.2017 is legal, valid and sustainable in the eye of law as the measurement work has been done in the presence of boundary Raiyats, Circle Inspector, Revenue Clerk, Pachrukhi P.S and two witnesses after proper service of notice to the boundary Raiyats

(iii) For issuance of any other appropriate writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.

2. On 18.11.2024, the following order was passed:-

No one appears for the petitioner. Learned counsel for the State and respondent no. 6 are present.

2. Despite direction of the Court, no counter affidavit has been filed on behalf of the State. Learned counsel for the State prays for time to file counter affidavit.

3. As prayed for, as a matter of last indulgence, list this matter after two



weeks i.e. on 02.12.2024.

4. It is made clear that if the earlier order of the court is not complied by the next date, the Court shall consider imposing cost of Rs. 5,000/- on the State to be deposited with the Patna High Court Legal Services Committee.

5. It is also made clear that in case no one appears for the petitioner on the next date of hearing, the matter would be decided on the basis of material available on the record.

3. Today also none appeared on behalf of the petitioner.

4. Learned counsel appearing for the State has submitted through the counter affidavit that notice was issued to the petitioner vide order dated 29.01.2018. The notice was tried to be served upon the petitioner by the office peon, but petitioner refused to receive the same and service report dated 02.02.2018 was submitted to this effect.

5. From perusal of the order sheets of the case, it transpires that though notice was directed to be issued vide order dated 29.01.2018, but there is no specific order passed by the authority to the effect that the authority is satisfied by the notice served upon the petitioner nor is there any order with regard to fixing of the case for *ex-parte* hearing. The order has



been passed without recording any satisfaction over the service of notice which is merely a formality and the cardinal principle of natural justice has been violated.

6. The Hon'ble Supreme Court in catena of judgments has held that principle of natural justice is equally applicable in quasi-judicial function as well as administrative function to arrive at just decision and it is difficult to see as to why it should be applicable only to quasi-judicial inquiry not to administrative inquiry and it has been settled law that it must logically apply to both. The Hon'ble Supreme Court in the case of ***D.K. Yadav vs. J.M.A. Industries Ltd.*** reported in (1993) 3 SCC 259 observed at para-12 which reads as under:-

"12. Therefore, fair play in action requires that the procedure adopted must be just, fair and reasonable. The manner of exercise of the power and its impact on the rights of the person affected would be in conformity with the principles of natural justice."

7. The said principle has been recently reiterated by the Hon'ble Supreme Court in the case of ***State Bank of India and Others vs. Rajesh Agarwal and Others*** reported in 2023 SCC OnLine SC 342 in which it has been observed as follows:-

"The Principles of natural justice



are not mere legal formalities. They constitute substantive obligations that need to be followed by decision-making and adjudicating authorities. The principles of natural justice act as a guarantee against arbitrary action, both in terms of procedure and substance, by judicial, quasi-judicial, and administrative authorities.”

8. In the present case, when action of respondent authorities is decided upon the touchstone of principles of natural justice as observed by the Hon'ble Supreme Court in the aforementioned cases (cited supra), it is crystal clear that action of respondent authorities is arbitrary as proper opportunity has not been given to the petitioner. When the concerned authorities passed the order without providing the opportunity to the aggrieved person, on that score the order passed by the concerned authorities are against the spirit of law, violating the principles of natural justice as observed by the Hon'ble Supreme Court in catena of judgments.

9. In the light of the discussions made above, the order dated 06.03.2018 passed by Deputy Collector Land Reform, Siwan in Measurement Appeal No. 1 of 2017-18 is not sustainable in the eye of law and the same is hereby set-aside. The matter is remanded back to the concerned authority for



hearing the matter afresh after serving the notice to the petitioner and pass fresh order within a period of four weeks from the date of receipt/production of copy of this order in accordance with law, after giving due opportunity of hearing to the party concerned.

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.12.2024
Transmission Date	NA

