

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12049 of 2025

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Nawal Kishore Chaudhary Son of Late Nageshwar Chaudhary Resident of
Village Gadhiya, P.O Gadhiya, P.S. Chautham, Dist. Khagariya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Khagaria.
2. The Additional Collector, Khagaria.
3. The Anchal Adhikari, Chautham, Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manas Prakash, Adv.
For the Respondent/s : Mr. Government Pleader (5)

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 31-07-2025

In the instant petition, the petitioner has prayed

for following relief(s):-

- (i) *For issuance of an appropriate writ(s) in the nature of Certiorari to quash the initiation of Jamabandi cancellation proceeding which has been registered as Jamabandi Cancellation Case No. 212/2024-25 without assigning any reason in the notice dated 25.01.2025 and further to quash the notice dated 25.01.2025 issued to the petitioner by the Respondent No. 2 i.e. Additional Collector, Khagaria, as the notice itself is bad and beyond the jurisdiction since the notice does not disclose the reason which is mandatory requirement as contemplated under Section 9 of the Bihar Land Mutation Act, 2011 (hereinafter referred to as 'the Act').*
- (ii) *For a direction to stay the further proceeding of Jamabandi Cancellation Case no. 212/2024-25 pending before Respondent No. 2 i.e. Additional Collector, Khagaria, else it will cause serious prejudice to the petitioner.*
- (iii) *For grant of any other relief/reliefs to which the petitioners are found entitled or*



*to pass any other order(s) / direction(s)
which your Lordships may deem fit and
proper in the facts and circumstances of
the case.*

2. Learned counsel for the petitioner submits that land in question appertaining to Khata No.61, Kheshra no. 342, area-4 khattha 3 dhur, Jamabandi no. 344 belongs to the petitioner. He further submits that petitioner is aggrieved by the notice dated 25.01.2025 (Annexure-P/1) regarding initiation of cancellation of Jamabandi by the Additional Collector, Khagaria. He has submitted that in order to initiate cancellation of jamabandi notice, there must be material to form the opinion for initiating the notice for cancellation of jamabandi which is totally missing in the notice issued by the concerned Additional Collector.

2. Learned counsel for the petitioners has submitted that issue involved in the present writ petition is identical and similar to Civil Writ Jurisdiction Case Nos. 19368 of 2021 decided by a co-ordinate Bench of this Court (Annexure-P/3).

3. Learned counsel on behalf of the State has not denied the contention of the learned counsel for the petitioner with regard to the contents of notice. Learned counsel has fairly submitted that the issue involved in the present writ petition is



identical and similar to the CWJC No. 19368 of 2021.

4. Section 9 of the Bihar Land Mutation Act, 2011 contemplates that the Additional Collector, either suo motu or on an application, shall have the power to make inquiries in respect of any jamabandi, which has been created in violation of any law for the time being in force or in contravention of any executive instruction issued in this behalf. It would be better to quote Section 9(1) of the Bihar Land Mutation Act, 2011, which is as follows:-

“9. Cancellation of jamabandi — (1) The Additional Collector, either suo motu or on an application, shall have the power to make inquiries in respect of any jamabandi, which has been created in violation of any law for the time being in force or in contravention of any executive instruction issued in this behalf. The Additional Collector, in whose jurisdiction the land is situated, may, after giving reasonable opportunity to the parties concerned to appear, adduce evidence and be heard, cancel such jamabandi, dispossess the person claiming under it and deliver the possession to the legitimate owner/custodian, on such terms as may appear to the Additional Collector to be fair and equitable.”

5. In the show-cause notice, which is under-challenge, no ground has been assigned. The notice dated



25.01.2025 is quoted here-in-below:-

" न्यायालय अपर समाहर्ता खगड़िया

डी०बी० नं० ० 165 दिनांक 25.01.25

जमाबंदी रसीद वाद सं० 212/24-25

पवन कुमारी बनाम नवल किशोर चौधरी

नोटिस बनाम :-

1 नवल किशोर चौधरी

पे०. नागेश्वर प्रसाद चौधरी

सा०- गढ़िया थाना चौथम

जिला खगड़िया

चूँ बजरिये नोटिस आपको सूचित किया जाता है कि इस न्यायालय में जमाबंदी रद्दीकरण वाद प्राप्त हुआ है जिसकी अगली सुनवाई तिथि 28.2.25 को निर्धारित है।

अतः आपको सूचित किया जाता है कि उक्त वाद में निर्धारित तिथि को स्वयं या अधिवक्ता के माध्यम में न्यायालय में उपस्थित होकर अपना पक्ष प्रस्तुत करें अन्यथा वाद की एकपक्षीय सुनवाई कर प्राप्त तथ्यों के आधार पर यथोचित निर्णय पारित किया जायेगा।

इसे ताकिद जाने

ह०/-
अपर समाहर्ता
खगड़िया

6. From bare perusal of impugned notice, it is apparent that no ground has been mentioned as to why jamabandi cancellation proceeding has been initiated against the petitioner. It is settled law that the existence of an alternative remedy is not a bar for this Court to entertain a writ application. If an order is absolutely beyond jurisdiction, this Court must interfere with at the stage of issuance of notice itself, else it will



cause serious prejudice. In this regard, reference can be made to a Supreme Court decision, reported in **(1998) 8 S.C.C. 1 (Whirlpool Corporation vs. Registrar of Trade Marks Mumbai and Others)**.

7. From bare perusal of notice it is crystal clear that there is nothing to show that prima facie opinion of Additional Collector has been reflected in the notice issued. The said notice does not clarify as to which law has been violated and which instruction has been contravened while jamabandi was created in favour of the petitioner. The said notice does not reflect any specific opinion and same is vague, cryptic and does not reveal the ground on which proceeding for cancellation of jamabandi has been initiated against the petitioner. It cannot be said to have been issued in conformity with the provisions contained in Section 9(1) of the Bihar Land Mutation Act, 2011.

8. Further, any order passed by the quasi judicial authority or any other authority must be a speaking and reasoned order but the aforesaid notice contained in Annexure-P/1 does not denote any reason for passing the order. If the order is non-speaking and without any reason or logic, the order has no meaning at all. In this context, the decision rendered by the Hon'ble Supreme Court in **Oryx Fisheries Private Limited Vs.**



Union of India & Ors reported in ***(2010) 13 SCC 427*** is quite relevant. Para 40 of the aforesaid judgment is quoted here-in-below for ready reference :-

"40. In *Kranti Associates* this Court after considering various judgments formulated certain principles in SCC para 47 of the judgment which are set out below: (SCC pp. 510-12)

"(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by



judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and Succinct. A pretence of reasons or 'rubber-stamp reasons is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial



powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harv. L. Rev. 731-37.)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain, EHRR at p. 562, para 29 and Anya v. University of Oxford, wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, 'adequate and intelligent reasons must be given for judicial decisions'.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of 'due process'."

9. In the light of the discussions made above and the law laid down by the Hon'ble Supreme Court in the cases of ***Whirlpool Corporation*** (*supra*) and ***Oryx Fisheries Private Limited*** (*supra*), the notice dated 25.01.2025 (Annexure-P/1) in the Jamabandi Cancellation Case No. 212/2024-25 issued by the Additional Collector, Khagaria is not sustainable in the eye of



law and the same is, hereby, quashed.

10. The Additional Collector, Khagaria is directed to issue fresh notice to the petitioner, disclosing the materials, which are the basis for him to form an opinion that *jamabandi* created in the name of the petitioner deserves to be cancelled. Such a notice must be issued within two months from today and thereafter the Additional Collector, Khagaria shall proceed in the matter in accordance with law.

11. With the aforesaid observations/direction, the present writ petition stands disposed of.

(Alok Kumar Pandey, J)

amitkumar/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	04.08.2025
Transmission Date	N/A

