

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17395 of 2021

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Lali Lal Sharan @ Mithlesh Sharan Son of Ram Lakhan Das, resident of
Village-Pandarak, Police Station-Pandarak, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, Patna.
3. The District Land Acquisition Officer, Patna.
4. National Thermal Power Corporation through the Managing Director, N.T.P.C., New Delhi.
5. The Project Manager, N.T.P.C. Project, Barh, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manish Kumar No2
For the Respondent/s : Mr.Rishi Raj Sinha (Sc19)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 02-02-2026

Heard learned counsel appearing on behalf of the

petitioner and learned counsel for the State.

2. Petitioner has *inter alia* prayed for following reliefs

in the paragraphs No.1 of the writ petition:-

“That the present writ application is being filed for appropriate writ/writs, order/orders, direction/directions to the respondent Authorities particularly the respondent no.3 District Land Acquisition Officer, Patna to pay adequate payment to the petitioner in view of the fact that land bearing plot no.29 appertaining to khata No.68 has been acquired for N.T.P.C. Project at Barh with the interest as same has been acquired much earlier but no compensation amount has been paid to the petitioner and/or for any other relief or reliefs to which the petitioner may be found entitled to in course of hearing of this writ application.”

3. Brief facts of the case are that the petitioner is the

Sevait/Mahanth of Lalji Bhagwan Thakurwari at Pandarak,



District Patna, and claims raiyati rights over land appertaining to S.P. No. 29, Khata No. 68, measuring 0.80 acre, situated at Mauza Mamrakhabad, Thana No. 11, P.S. Pandarak, District Patna, recorded in the name of the Thakurwari. The said land was acquired for construction of a rail siding for the NTPC, Barh project, but no compensation has been paid to the petitioner on the ground that the land was allegedly declared surplus. However, in Ceiling Case No. 1/8 of 1974-75/1984-84 under the Bihar Land Ceiling Act, the Additional Collector, Patna, by order dated 26.03.1984, held that the land was not surplus and dropped the proceeding, whereafter the land was mutated in the petitioner's name and rent receipts were issued. The petitioner claims title and possession through a registered sale deed dated 14.04.1949 and asserts that the revenue records have consistently stood in his favour without dispute from any quarter. Earlier, the then Sevait, Mahanth Ram Lakhan Das, filed C.W.J.C. No. 7937 of 2020, in which this Court, by order dated 10.05.2020, directed the petitioner to approach the Collector, Patna, who was to verify whether the petitioner was a *raiyyat* in possession prior to acquisition and, if so satisfied, to ensure payment of compensation. Pursuant thereto, the petitioner approached the Collector in L.A. Case No. 02/2008-



09 seeking payment, but despite the Court's direction and repeated steps taken by the petitioner, no compensation has been released till date. Owing to non-payment, the petitioner, as Sevait of the temple, is facing acute financial hardship in managing daily religious activities, Puja and distribution of prasad, and developmental works of the Thakurwari have also come to a standstill.

4. Learned counsel appearing on behalf of the petitioner seeks to avail appropriate remedy in accordance with law for the relief as sought for in the present writ petition, for which the petitioner has already filed a detailed application before the District Magistrate-cum-Collector, Patna on 24.05.2010 and since then, no action has been taken on the application of the petitioner.

5. This Court is aware of the inaction on part of the revenue authorities mainly *Bara Babu* and *Chhota Babu* (*UDC and LDC*) of the Collector's office who at times intentionally don't place the application of the aggrieved person for being adjudicated. Present is one case, on account of inaction of the Collectors, who were posted at the relevant time till date have not been able to have control over their subordinates and the office staffs, petitioner has been forced after 10 years to file



writ petition before this Court and the same is pending since the year 2021. The petitioner is aggrieved for determination of fair compensation, for which he had already filed his application in the year 2010 before the District Magistrate-cum-Collector and no information has been given in the counter affidavit filed on behalf of the Collector, as to why, the Collector has not taken any action on the application filed by the petitioner.

6. The authorities of the State Government are required to abide by the rule of law. It is indeed unthinkable that in a democracy governed by the rule of law the executive/Government or any of its officers who possess arbitrary power over the interests of the individual act of their own wishes. Every action of the executive Government must be informed with reason and should be free from arbitrariness. That is the very essence of the rule of law and its bare minimal requirement. And to the application of this principle it makes no difference whether the exercise of the power involves affectation of some right or denial of some privilege.

8. It is also well settled principle of law that every administrative action in want of reason is not sustainable as has been held by the Apex Court in the case of ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan*** reported in (2010) 9 SCC 496.



The relevant paragraph is reproduced hereinbelow:

*“47. Summarising the above discussion,
this Court holds:*

(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 Candor³²).

(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 vs. Spain³³ EHRR, at 562 para 29 and Anya v. University of Oxford³⁴, 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. The law in this regard has been reiterated by the Apex Court in the Case of ***M/s Magadh Sugar & Energy Ltd. Versus The State of Bihar & Ors.*** reported in ***LL 2021 SC 495***, paragraphs no. 19 and 28 would be relevant in this regard, which is as under:-

“ 19. While a High Court would normally not exercise its writ jurisdiction under Article 226 of the Constitution if an effective and efficacious alternate remedy



is available, the existence of an alternate remedy does not by itself bar the High Court from exercising its jurisdiction in certain contingencies. This principle has been crystallized by this Court in Whirpool Corporation v. Registrar of Trademarks, Mumbai¹⁹ and Harbanslal Sahni v. Indian Oil Corporation Ltd²⁰. Recently, in Radha Krishan Industries v. State of Himachal Pradesh & Ors²¹ a two judge Bench of this Court of which one of us was a part of (Justice DY Chandrachud) has summarized the principles governing the exercise of writ jurisdiction by the High Court in the presence of an alternate remedy. This Court has observed:

“28. The principles of law which emerge are that: (i) The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well; (ii) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person; (iii) Exceptions to the rule of alternate remedy arise where (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged; (iv) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law; (v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and (vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.” (emphasis supplied)

10. Now question arises whether this Court can exercise its jurisdiction under Article 226 of the Constitution of India in the facts of the present writ petition in case respondents have acted without jurisdiction. Law in this regard is well



settled by the Apex Court in the case of *Assistant Commissioner of State Tax v. M/s Commercial Steel Limited (Civil Appeal No. 5121 of 2021)*. In State of *HP v. Gujarat Ambuja Cement Ltd & Anr., reported in (2005) SCC 6 499* this Court has held that a writ petition is maintainable before the High Court if the taxing authorities have acted beyond the scope of their jurisdiction. This Court observed:

“23. Where under a statute there is an allegation of infringement of fundamental rights or when on the undisputed facts the taxing authorities are shown to have assumed jurisdiction which they do not possess can be the grounds on which the writ petitions can be entertained. But normally, the High Court should not entertain writ petitions unless it is shown that there is something more in a case, something going to the root of the jurisdiction of the officer, something which would show that it would be a case of palpable injustice to the writ petitioner to force him to adopt the remedies provided by the statute. It was noted by this Court in L. Hirday Narain v. ITO [(1970) 2 SCC 355: AIR 1971 SC 33] that if the High Court had entertained a petition despite availability of alternative remedy and heard the parties on merits it would be ordinarily unjustifiable for the High Court to dismiss the same on the ground of non-exhaustion of statutory remedies; unless the High Court finds that factual disputes are involved and it would not be desirable to deal with them in a writ petition.”

11. It is also to be taken note of that Article 300A of the Constitution of India, which tends to safeguard the invaluable right to property.

*“300-A. Persons not to be deprived of property save by authority of law
No person shall be deprived of his property save by authority of law.”*



12. The State cannot disposes a citizen of his property except in accordance with law and procedure prescribed. The obligation to pay compensation is not expressively included in Article 300-A of the Constitution of India can be inferred in that Article. The law in this regard is well settled by the Apex Court in case of ***Vidaya Devi Vs. The State of Himachal Pradesh & Ors.*** reported in **2020(2) SCC 569**, I find it proper to quote the para-12.1 and 12.2 of the said judgment, which are *inter alia* reproduced hereinafter;

“12.1. The appellant was forcibly expropriated of her property in 1967, when the right to property was a fundamental right guaranteed by Article 31 in Part III of the Constitution. Article 31 guaranteed the right to private property [State of W.B. v. Subodh Gopal Bose, (1953) 2 SCC 688 , which could not be deprived without due process of law and upon just and fair compensation.

12.2. The right to property ceased to be a fundamental right by the Constitution (Forty-Fourth Amendment) Act, 1978, however, it continued to be a human right [Tukaram Kana Joshi v. MIDC, (2013) 1 SCC 353 in a welfare State, and a constitutional right under Article 300-A of the Constitution. Article 300-A provides that no person shall be deprived of his property save by authority of law. The State cannot dispossess a citizen of his property except in accordance with the procedure established by law. The obligation to pay compensation, though not expressly included in Article 300-A, can be inferred in that Article. [K.T. Plantation (P) Ltd. v. State of Karnataka, (2011) 9 SCC 1”

13. The above proposition of law has again been reiterated by the Apex Court in the case of ***Dharnidhar Mishra (D) and Another vs. State of Bihar and Others***, in Civil Appeal No. 6351 of 2024, ***reported in (2024) 10 Supreme Court Cases 605***, is relevant. The paragraph is reproduced as under:—



“ 16. The right to property ceased to be a fundamental right by the Constitution (Forty-fourth Amendment) Act, 1978, however, it continued to be a human right in a welfare State, and a constitutional right under Article 300-A of the Constitution. Article 300-A provides that no person shall be deprived of his property save by authority of law. The State cannot dispossess a citizen of his property except in accordance with the procedure established by law. The obligation to pay compensation, though not expressly included in Article 300-A, can be inferred in that Article. [See: K.T. Plantation (P) Ltd. v. State of Karnataka [K.T. Plantation (P) Ltd. v. State of Karnataka, (2011) 9 SCC 1.”

14. In such circumstances, when the question of right to property as per the provision of Article 300 A of the Constitution of India comes to the knowledge of this Court, this Court has no alternative than to direct the concerned authority to forthwith take action and see that the grievance of the petitioner is redressed well within a period of one week in accordance with law from the date of communication of this order. The Collector concerned is directed to communicate the compliance report by passing a reasoned order before the Additional Chief Secretary, Revenue and Land Reforms Department, as well as, to the concerned officer having jurisdiction of the NTPC.

15. In case, the petitioner is required to be compensated, the required amount of compensation should be paid to him, as per the provision of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 without further delay on the basis of the



prevailing MVR existing in the area, where the alleged land, which has been claimed by the petitioner is found to be acquired.

16. The writ petition is, accordingly, disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	12.02.2026
Transmission Date	NA

