

(2002) 01 PAT CK 0125

Patna High Court

Case No: C.W.J.C. No. 490 of 2002

Govind Sah and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision: Jan. 16, 2002

Acts Referred:

- Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 - Section 45B

Citation: (2002) 1 PLJR 531

Hon'ble Judges: Shiva Kirti Singh, J

Bench: Single Bench

Advocate: Amrit Abhijat and Brajesh Kr. Singh, for the Appellant; H.P. Singh, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Shiva Kirti Singh, J.

Heard learned Counsel for the Petitioners and learned Counsel for the State.

2. A limited grievance has been raised on behalf of the Petitioners that their application u/s 45B of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act has been rejected by the district Collector of Supaul twice, once in 1995 by order contained in Annexure-2 and again in the year 2001 by order contained in Annexure-1 on a wrong ground that he has no power to consider a petition for reopening and that such power now vests in the State Government in view of amendment in the Act in the year 1997.

3. Learned Counsel for the Petitioners has placed reliance upon a judgment of this Court in the case of [Bhagwan Singh and Others and Jagdish Prasad Singh and Others Vs. State of Bihar and Others](#), wherein this Court held that the power of the

Collector of the district has to be judged on the basis of date on which application for reopening was filed and subsequent amendment will not be construed to be retrospective so as to obliterate the power of reopening available in the district Collector on the date of filing of the application.

4. In view of aforesaid judgment of this Court, this writ petition is allowed and the impugned order contained in Annexures 1 and 2 are quashed because from the facts it is clear that on both occasions when the Petitioners have filed applications, the district Collector had the power to consider the prayer for reopening. As a result, the impugned orders are set aside but in the facts of the case, the matter is remitted back to the district Collector, Supaul for considering Petitioners prayer for reopening in accordance with law on its own merit. It is made clear that this Court has not examined the merits of Petitioners claim which must be decided by the Collector of the district expeditiously and preferably within a period of four months from the date of production/communication of a copy of this order.