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(2007) 02 PAT CK 0207

Patna High Court

Case No: CWJC No. 12447/06

Sudhir Kumar Jha APPELLANT

Vs

The State and Others RESPONDENT

Date of Decision: Feb. 28, 2007

Citation: (2007) PLJR 196

Hon'ble Judges: Navaniti Pd. Singh, J

Bench: Single Bench

Advocate: Dhurendra Kumar, for the Appellant; Nilu Agarwal, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Navaniti Pd. Singh, J.
Heard the parties including the private respondent and with their consent this writ application is being disposed of at the stage of admission itself. It is not disputed that a small part of the Jalkar, in question, falls on the petitioner''s land. Petitioner had been the last settlee of the Jalkar Last year i.e. 2006-07 there has been no settlement because a dispute was pending. The private respondent had sought to take the settlement. The petitioner had objected. This Court had in earlier by petitioner held that proceedings being pending they would be decided by the Collector by a reasoned order. Unfortunately, the Collector, who appears to be an officer of IAS cadre, appears not to be aware as to how he must conduct quasi judicial proceeding and further as to how he has to deal with rights of Individual citizen. Once a dispute was before him it was not his personal matter nor his office matter. It was an official matter which required a determination which is nothing but a quasi judicial proceeding where parties have to be heard, arguments considered and a reasoned order passed and communicated to parties. The Collector was, as such in the earlier writ proceeding, directed to pass a reasoned order which is a culmination of the aforesaid process. He chose to ignore every aspect of the matter and passed orders by way of office note on recommendation made by office staff. When copies of this was asked for the Collector had the check and audacity to say that order would not be given as it was passed in administrative file. This was in spite of earlier order of this court. It

appears that the learned Collector is living in fool''s paradise and is not even aware of Right to Information Act where he is obliged to give all informations available. He has forgotten that when dealing with rights of citizen he cannot withhold informations from citizen whose rights are being dealt with. He has forgotten that he is a public servant and that public is not his servant. He was obliged in law to pass a reasoned order and make the same available to the petitioner. He is not dealing his personal property. He is dealing public property and rights of citizen. Accordingly, I direct no settlement would be made without following procedure in accordance with new Sairat Settlement Act, 2006 and if petitioner is ready and willing to take the settlement at a competitive price then preference has to be given to him as undisputedly a small part of Jalkar is on his raiyati land. The private respondent to whom the Collector had intended to make settlement is not approved by this court inasmuch as it was intended to be done not in accordance with the Act aforesaid and has been done without disposing of objection of the petitioner as directed by this court.

2. In such a situation till further settlement is made petitioner shall not be disturbed.

3. With this observation this writ petition stands disposed of. Let a copy of this order be given to State counsel.