**(2003) 01 MP CK 0162**

**In the Madhya Pradesh High Court**

**Case No :** Writ Petition No. 2621 of 1995

Brij Nandan Prasad Tiwari APPELLANT

Vs

State of M.P. and others RESPONDENT

**Date of Decision :** 08-01-2003

**Acts Referred:**
Madhya Pradesh Land Revenue Code, 1959 — Section 162

**Citation :** (2004) 1 MPLJ 325

**Hon'ble Judges :** Arun Mishra, J

**Bench :** Single Bench

**Advocate :** K.N. Agrawal, for the Appellant; B.N. Mishra, Government Advocate, for the Respondent

**Final Decision :** Allowed

## Judgement

Arun Mishra, J.

Petitioner in the instant writ petition is assailing the exercise of suo motu powers by the Collector after 30 years of the allotment of land having been made for agricultural purpose.

Petitioner applied for allotment of certain agricultural land u/s 162 of the M.P. Land Revenue Code, 1959 which was omitted from the Land Revenue Code, 1959 w.e.f. 23-4-1964 vide Act No. 25/1964. The petitioner submitted an application for allotment on 11-10-1962. Proclamation etc. were issued. Gram Panchayat filed no objection. Allotment was made by the Tehsildar as per order (Annexure G) dated 13-6-1963. Patta (Annexure E) was issued to the petitioner. Thereafter petitioner cultivated the land. All of a sudden after expiry of 30 years on the report of S.D.O., the Collector issued a show cause notice to exercise the suo motu power of revision and ultimately quashed the Patta as per order (Annexure G) dated 4-7-1992. Petitioner preferred a revision before the Commissioner, Rewa, Division Rewa. Revision was dismissed as per order (Annexure H) dated 3-4-1993. Petitioner preferred second revision before the Board of Revenue.

 

Same has been dismissed as per order (Annexure I) dated 13-5-1995. Petitioner assails the order passed by the Collector, Commissioner and Board of Revenue in the instant writ petition mainly on the ground that cancellation of Patta after 30 years in suo motu exercise of power is contrary to law and otherwise also cancellation on the ground that procedure was not followed is bad in law.

A return has been filed by respondents No. 1 and 3. It is contended in the return that the findings recorded in the impugned orders are proper. 20 acres of land was wrongly allotted. Show cause notice was issued. Full opportunity of hearing was afforded by the Collector before cancelling the Patta. Allotment u/s 162 of Code could only be made to those incumbents who are residents of the same village and landless persons. Petitioner is a resident of Madhavgarh whereas the land in question situate at Kripalpur. The land could not be allotted on application of an individual and for the purpose of making allotment, advertisement was required to be published and a meeting ought to have been called of all the villagers and if the villagers accord permission or did not put forth any objection then only the land could be allotted. The procedure was not followed while making the allotment of the land in favour of the petitioner. The objections were raised by Swamideen Malah, Chandrika Prasad, Ram Swaroop and Ram Vishal etc. which were not taken into consideration. The question of limitation, does not come in the way when the matter is taken up in suo motu revision. It is not a case initiated at the instance of someone else. There is no infirmity in the orders passed by the Collector as affirmed by the Commissioner and Board of Revenue, hence, writ petition deserves dismissal.

Shri K.N. Agrawal, learned counsel appearing for the petitioner, has urged that suo motu power of revision cannot be exercised after lapse of 30 years and otherwise also on merits the impugned order is bad in law. For irregularity if any suo motu power of revision could not be exercised after 3 decades and allotment could not be cancelled. Learned counsel submits that in the circumstances, delay come in the way of exercise of suo motu power of revision. Thus, the impugned orders deserve to be quashed.

Shri B.N. Mishra, learned G.A. appearing for the respondents, has strenuously contended that it is case where procedure of allotment was not followed. Petitioner was not entitled for allotment as he is not resident of the same village where the land is situated. Maximum land which could be allotted was 15 acres whereas 20 acres of land was allotted and orders call for no interference.

This Court has laid down umpteen number of times that suo motu power of revision can only be exercised within a ''reasonable period''. The Apex Court in The State of Gujarat Vs. Patil Raghav Natha and Others, , has laid down that power of suo motu of revision cannot be invoked after inordinate delay. The Apex Court has clearly laid down that suo motu power of revision can be exercised after delay of ''few months'' but cannot be exercised after an inordinate delay. In Pratap Singh and another vs. State of M.P., 1997 RN 219, this Court held that the power of suo motu revision cannot be exercised with respect to an order passed

 

7 years before. The order was passed in the year 1972 and in the year 1979 in the exercise of power of suo motu revision, order was recalled which was set aside only on the ground of delay in exercise of power of revision. In Hamir Singh vs. State of M.P. and others, 1996 RN 80, this Court again held that suo motu revisional power after lapse of more than six years cannot be exercised. The Apex Court in Mohamad Kavi vs. Fatmabai Ibrahim, 1998(1) MPWN 26, has reiterated that suo motu power of revision can be exercised within a ''reasonable time''. Following the decisions of the Apex Court itself in The State of Gujarat Vs. Patil Raghav Natha and Others, and in case of Ram Chand and Others Vs. Union of India (UOI) and Others, , the Apex Court has emphasized that where no time limit is prescribed for exercise of a power under a statute it does not mean that it can be exercised at any time; such power has to be exercised within a reasonable time.

In the instant case, three decades passed by no stretch of any logic it can be allowed to be contended that interference is rightly made as irregularities/ illegalities were done in making allotment. Only on the ground of delay in exercise of power of suo motu revision, the orders passed by the Collector, Commissioner and Board of Revenue are liable to be quashed.

Resultantly, writ petition is allowed. The impugned orders Annexures G, H and I are quashed. Security if deposited be refunded to the petitioner. Costs on parties.