
(2022) 07 PAT CK 0058

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 5583 Of 2022

Hareram Tiwari

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 21-07-2022

Acts Referred:

Bihar Right To Public Grievance Redressal Act, 2015 — Section 2(a)

Citation : (2022) 07 PAT CK 0058

Hon'ble Judges : Mohit Kumar Shah, J

Bench : Single Bench

Advocate : Parth Gaurav, Rajiv Shankar Dvivedi, Ashutosh Kumar Pandey, Shilpa, Praveen, Rishi Raj Sinha

Final Decision : Allowed

Judgement

The present writ petition has been filed for quashing the order dated 28.6.2021, passed by the District Magistrate, Bhojpur at Ara in the capacity of Second Appellate Authority under the provisions of the Bihar Right to Public Grievance Redressal Act, 2015 i.e. Annexure-1 to the writ petition, whereby and whereunder the Circle Officer, Tarari, has been directed to demolish the wall in question, which was in fact constructed by the Respondent authorities themselves.

The learned counsel for the petitioner has referred to the provisions contained in the Bihar Right to Public Grievance Redressal Act, 2015, especially to the kind of complaints which can be entertained by the said authority, as has been mentioned in Section 2(a) of the Bihar Right to Public Grievance Redressal Act, 2015, which is reproduced hereinbelow:-

"2(a) "complaint" means any application made by a citizen or a group of citizens to a Public Grievance Redressal Officer for seeking any benefit or relief relating to any schemes, programme or services run in the State by the State Government or in respect of failure or delay in providing such benefit or relief, or regarding

any matter arising out of failure in the functioning of, or violation of any law, policy, service, programme or scheme in force in the State by a public authority but does not include grievance relating to the service matters of a public servant, whether serving or retired, or relating to any matter in which any Court or Tribunal has jurisdiction or relating to any matter under Right to Information Act, 2005(Central Act No. 22 of 2005) or services notified under the Bihar Right to Public Services Act, 2011."

It is thus submitted that removal of any unauthorized structure or for that matter, an authorized structure, as the case is in the present case, does not fall within the domain of the Second Appellant Authority, exercising powers under the Bihar Right to Public Grievance Redressal Act, 2015, hence, the Second Appellate Authority could not have passed the aforesaid order dated 28.6.2021, directing the Circle Officer, Tarari to demolish the wall in question.

Per contra, the learned counsel for the State, Sri Rishi Raj Sinha (SC-19), has submitted by referring to the counter affidavit filed by the Circle Officer, Tarari that he is merely carrying out the order of the District Magistrate cum Second Appellate Authority, which had been passed on 28.6.2021. It is also submitted by referring to paragraph no. 6 of the counter affidavit that the retaining wall was constructed under the MNREGA scheme, after the same was approved by the Gram Sabha and the said wall does not cause hinderance to the farmers in their irrigation activities.

I have heard the Ld. Counsel for the parties. Having regard to the facts and circumstances of the case and considering the scope of the Bihar Right to Public Grievance Redressal Act, 2015 as also taking into account the kind of complaints that can be entertained by the Public Grievance Redressal Officer / First Appellate Authority / Second Appellate Authority, this Court finds that the issue of removal of an encroachment / retaining wall constructed under the MNREGA scheme does not lie within the domain of the authorities concerned, under the Bihar Right to Public Grievance Redressal Act, 2015, hence, this Court finds that the order dated 28.6.2021, passed by the District Magistrate cum Second Appellate Authority, is illegal and has been passed beyond the scope of the Bihar Right to Public Grievance Redressal Act, 2015, hence, is quashed.

The writ petition stands allowed.