

**(1986) 08 PAT CK 0014**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 4587 of 1985

Lalan Prasad Sharma

APPELLANT

Vs

The State of Bihar and others

RESPONDENT

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**Date of Decision :** 05-08-1986

**Acts Referred:**

**Citation :** (1986) PLJR 1033

**Hon'ble Judges :** S.S. Sandhawalia, C.J.; Ramnandan Prasad, J

**Bench :** Division Bench

**Advocate :** Rameshwar Prasad Narain Singh, for the Appellant; Tarakant Jha and Mihir Kumar Jha, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

S.S. Sandhawalia, C.J.—This writ petition must founder on the bed rock of the preliminary objection strenuously pressed on behalf of the respondents with regard to its very maintainability. It, therefore, becomes unnecessary to recount the facts in any great detail. It suffices to mention that the petitioner here in lays primal challenge to the settlement of fishery right in the Mafe Tank with Respondent No. 5, and, in essence seeks a mandamus for the grant of the same to him. It is the admitted position that no formal registered deed for the fishery right has even remotely been expressed in favour of the petitioner. In view of the aforesaid facts, the very maintainability of the writ petition has been strenuously challenged on behalf of the respondents. It is common ground that on this point the matter stands concluded against the writ petitioner by the recent Full Bench judgment of this Court in Chetlal Sao and another v. he State of Bihar and others (1986 P.L.J.R. 149), which in terms rests substantively and wholly on the reasoning in the earlier judgment in the The Bihar Eastern Gangetic Fishermen Co-operative Society Ltd. Vs. Sipahi Singh and Others, . Nevertheless, the learned Counsel for the petitioner took upon himself not only the uphill, but, indeed the impossible task of contending that the aforesaid binding judgment were not good law and should be deviated from.

2. We are wholly unable to agree with the stand taken on behalf of the petitioner by his learned Counsel. In Chetlal Sao and another v. The State of Bihar & others (supra) the Full Bench, after an exhaustive discussion of principle and precedent, came to the conclusion that a writ of mandamus would not be maintainable in the absence of a concluded registered contract or lease of the Sairat settlement. That judgment is in itself binding on us. However, it is well to re-call that the correctness of the said view was again strenuously sought to be challenged in Satrudhan Sahani and others v. The State of Bihar and others (Civil writ Jurisdiction Case No. 4945 of 1985, decided on the 7th April, 1986) (1986 PLJR 796), After a detailed consideration thereof, it was held that relief for re-consideration of Sipahi Singh's case and the Full Bench judgment in Chetlal Sao's case (supra) must necessarily fail. However, the final seal of approval has now been put on that by their Lordships of the Supreme Court in Jageshwar Prasad and another v. The State of Bihar and others (1986 P.L.J.R. 17-SC). In view of the above, the primary objection is upheld and the writ petition is dismissed as not maintainable

R.N. Prasad, J.

I agree.