

(2018) 04 JH CK 0113
In the Jharkhand High Court
Case No : W.P.(C) No.837 of 2013

MANJEET SINGH AND ORS.

APPELLANT

Vs

STATE OF JHARKHAND

RESPONDENT

Date of Decision : 18-04-2018

Acts Referred:

Bihar Privileged Persons Homstead Tenancy Act, 1947 — Section 21

Citation : (2018) 04 JH CK 0113

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Bibhash Sinha, Ashutosh Kr. Singh

Judgement

1. Heard Mr. Bibhash Sinha, counsel appearing for the petitioners.
2. Heard Mr. Ashutosh Kumar Singh, counsel appearing for the respondents.Â
3. This writ petition has been filed for the following reliefs:
 - a) An appropriate writ, order or direction for quashing of letter No.1688 dated 12.09.2012 issued by Respondent No.2 whereby and whereunder Basgit Parcha issued in favour of petitioner under Section 21 of Bihar Privileged Persons Homstead Tenancy Act, 1947 vide Basgit Parcha Case No.07/92-93 has been cancelled;
 - b) Upon quashing of letter No.1688 dated 12.09.2012 issued by respondent No.2 for issuance of further writ, order or direction also for quashing of Memo No.731 dated 02.11.2012 issued by Circle Officer, Ghatshila (Respondent No.4) whereby and whereunder order of cancellation has been communicated to the petitioner;
 - c) Any other appropriate writ(s), order(s) or direction(s) as may be deemed fit and appropriate for doing conscionable justice to the petitioner in the

facts and circumstances of the case.â??

4. Counsel for the petitioners submits that the Basgit Parcha granted to the petitioners vide Basgit Settlement Case No.7 of 1992-93 has been

cancelled by the impugned order without issuing any notice to the petitioners and without granting any opportunity of hearing to the petitioners. The

counsel for the petitioners refers to paragraph no.14 of the writ petition which reads as follows:

â??14. That the petitioner states and submits that from perusal of letter No.1688 dated 12.09.2012 issued by Respondent No.2 it is apparent that the

order has been passed without affording any opportunity of hearing to the petitioner and the same will not stand in the eye of law.â??

5. Counsel for the respondents, on the other hand submits that the counter-affidavit has been filed in this case but he is not in a position to dispute the

statement made in paragraph no.14 of the writ petition and he refers to reply to paragraph no.14 of the writ petition which is contained in paragraph

no.11 of the counter-affidavit which reads as follows:

â??11. That with regard to the statement made in paragraph 11 to 16 of the writ petition it is stated that these Collector of the District is well

empowered to under section 21 of B.P.H.T. Act to see the regularity and correctness of the proceedings and thus there is no illegality committed by

the Respondent No.2 in passing the order dated 12.09.2012.â??

6. From the perusal of the records, it appears that the Basgit Parcha issued to the petitioners has been cancelled without affording any opportunity of

hearing to the petitioners and accordingly, the impugned orders dated 02.11.2012 and

12.09.2012, as contained in Annexure-3 and Annexure-4 to the writ petition, are hereby quashed and set-aside and the matter is remitted back to the

Deputy Commissioner, East Singhbhum, Jamshedpur for passing a fresh order after giving an opportunity of hearing to the petitioners.Â

7. The petitioners are directed to appear before the Deputy Commissioner, East Singhbhum, Jamshedpur on 15.05.2018 and the Deputy

Commissioner, East Singhbhum, Jamshedpur is directed to pass appropriate speaking order within a period of three months thereafter after giving

adequate opportunity of hearing to the petitioners.Â