(1999) 07 PAT CK 0107

In the Patna High Court

Case No : C.W.J.C. No. 334 of 1992

Sk. Manzoor Alam — APPELLANT

Vs

State of Bihar and Others — RESPONDENT

Date of Decision : 15-07-1999

Acts Referred:

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 — Section 8(1), 8(2)(i)

Citation : (1999) 3 BLJR 1842 : (1999) 3 PLJR 538

Hon'ble Judges : Narbdeshwar Pandey, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Narbdeshwar Pandey, J.—Heard. This writ petition has been filed for quashing the entire proceeding in Case No. 15 of 1978-79, whereby and whereunder, the petitioner was imposed a penalty of Rs. 58,250/- for non-filing of return within the prescribed period. Prayer has also been made to quash the Certificate Proceeding bearing No. 62 of 1978-79, which was initiated for non-payment of the fine as imposed upon the petitioner u/s 8(2)(i) of the Bihar Land Ceiling (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, in short "the Act".

2, There is no dispute that the petitioner is a land-holder of the lands for which Ceiling Case No. 15 of 1978-79 was started. The only grievance of the petitioner is that the entire proceeding initiated u/s 8(1) including the order passed u/s 8(2)(i) of the Act, imposing penalty was illegal since there was flagrant violation of the principles of natural justice. Prayer has also been made since the proceedings u/s 8(1) as well as the order imposing fine were itself defective and bad in law, the certificate proceeding for non-payment of Rs. 58,250/- along with the interest will also have to be held illegal,

3. The petitioner in this writ petition has asserted that no notice as required u/s 8(1) was given by the Collector, He further contended that apart from the lacuna

as noticed above, as would appear from Sub-section 2(i) of Section 8 of the Act that in a case where the landholder fails to show sufficient cause for not submitting return in compliance of the notice served under Sub-section (1) of Section 8 and further fails to adduce evidence in order to justify the reasons for non-filing of the return within the prescribed period, then in that case the Collector can impose fine. In this case from a bare reference to the averments made in the writ petition as well as the Annexures annexed therewith, it would appear that none of the formalities were observed.

4. No counter-affidavit has been filed on behalf of the State to controvert the facts, as alleged above. However, Mr. Alain appearing on behalf of the State contended that petitioner must have genuine notice about filing of the return and the failed to submit return within the prescribed period, it was open to the Collector to impose fine.

5. In my view, from a bare reference to the provisions of Section 8(2)(i) of the Act, it would appear that before imposing fine for non-filing of the return in time, the Collector is required to observe certain necessary formalities 1 e. (a) a notice calling upon the land-holder that in spite of having surplus land, he failed to file return within the prescribed period, (b) an opportunity has to be extended to the land-holder to file show cause, justifying reasons under what circumstances returns were not filed and lastly (c), the land-holder be given an opportunity to adduce evidence of hearing, if desired. Therefore, only after compliance of such requirements, the Collector can impose find under the instant provisions.

6. In this case, no material has been placed before me on behalf of the State to justify that such requirements were fulfilled. Hence, I have no option but to accept the contentions made on behalf of the petitioner, holding that the imposition of fine against him was without any reasonable opportunity as required under Sub-section (2) of Section 8 of the Act. Therefore, taking into consideration the facts, stated above, I allow this writ application and quash the entire proceeding in Ceiling Case No. 15 of 1978-79 as also the Certificate Proceeding No. 62 of 1978-79. However, in the facts and circumstances of the case, there shall be no order as to costs.

