
(2002) 09 JH CK 0071
In the Jharkhand High Court
Case No : CWJC No. 479 of 1995 (R)

Surendra Nath Choubey and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 19-09-2002

Acts Referred:

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 — Section 45B

Citation : (2003) 1 JCR 478

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Debi Prasad, L.K. Lal and S. Singh, for the Appellant; R.S. Mazumdar, G.A. and M. Palit, JC to GA, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—Petitioners have impugned the order dated 14.12.1994 whereby the Deputy Commissioner directed for reopening of the ceiling proceeding u/s 45B of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961.

2. It appears that petitioners earlier moved this Court against the notice issued u/s 45B of the said Act for reopening of the proceeding. The writ petition being CWJC No. 2009/1993(R) was disposed of on 15.7.1993 with a direction to the Deputy Commissioner to reconsider the matter and pass reasoned order as to how it is a fit case for reopening. In compliance of that order the Deputy Commissioner, Garhwa passed the impugned order.

3. Mr. Debi Prasad, learned senior counsel appearing for the petitioner submitted that the Deputy Commissioner has committed serious error of law in so far as he failed to record the reasons while passing the order u/s 45B of the said Act. Learned counsel relied upon the decision of the Division Bench of the Patna High Court in the case of Rabindranath Kumar and Ors. v. State of Bihar and Ors. 1984 BLJ 379 and in the case of Ranjit Singh v. State of Bihar and Ors., 1987

PLJR 230.

4. From perusal of the impugned order dated 14.12.1994, it is clear that the Deputy Commissioner simply recorded in the order that he examined the record and found that it is fit case for reopening of the proceeding. No reasons have been assigned nor did he disclose new materials on the basis of which he decided to reopen the matter under the aforesaid provisions of the Act. It is well settled that the Court should exercise its power u/s 45B of the Act for reopening the proceeding only on the basis of new materials and not without any valid and adequate reasons. The impugned order therefore cannot be sustained in law.

5. For the aforesaid reasons, this writ application is allowed and the impugned order dated 14.12.1994 passed by the Deputy Commissioner in L.C. Case No. 67 of 1973-74 is set aside and the matter is remitted back to him for passing fresh reasoned order after giving opportunity of hearing to the petitioners. Since the matter is very old the Deputy Commissioner shall pass the order within three months from the date of receipt of copy of this order.