
(2015) 02 PAT CK 0069

In the Patna High Court

Case No : CWJC Nos. 6420 and 6629 of 1990

Surendra Roy and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 18-02-2015

Acts Referred:

Bihar Tenancy Act, 1885 — Section 48-E, 48-E(3), 48-E(4)

Citation : (2015) 2 PLJR 254

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Chakradhari Sharan Singh, J.

1. In both the cases, the petitioners are aggrieved by a common order dated 27.4.1989 passed by the Collector, Bhojpur, Ara in Revenue Miscellaneous Case No. 32/79-80, 33/79-80, 34/79-80, 35/79-80, 36/79-80, 38/79-80, 39/79-80, 40/79-80, 41/79-80 in exercise of power under Sections 48-E(3) and 48-E(4) of the Bihar Tenancy Act, 1885 (hereinafter referred to as the "Act") whereby he has referred the dispute between the petitioner and Respondents to the Board and constituted the Board. The petitioners in the present case are the landowners whereas the private respondents, are under-raiyats (Bataidars). Petitioners have a grievance that constitution of the Board by the Collector is illegal because he has appointed such persons as members of the Board, who are themselves under-raiyats.

2. As per Section 48-E(4) of the Act, the Collector, is required to appoint a Board consisting of a Chairman; who shall be unconnected with the dispute referred to such Board or with any party directly affected by such dispute and two members to represent the parties to the dispute. The representative-members are required to be appointed on the recommendation of the party, whom such members shall be representing.

3. Learned counsel for the petitioners submits that the members, appointed by the Collector at the instance of the under-raiyats, being themselves under-raiyats, would be biased against the petitioners-land owners and they should not have been allowed to form the Board.

4. From the facts pleaded in the writ application, it appears that the private respondents, complaining threatened unlawful ejectment from their tenancy had approached Collector and the Collector in exercise of power under Section 48-E(3) of the Act referred the matter to the Board, and appointed a Board under Section 48-E(4) of the Act. Sub-section (3) and subsection (4) of Section 48-E of the Act are reproduced hereinbelow:--

"(3) When a proceeding is initiated under sub-section (1) the Collector may refer the matter (hereinafter referred to as "dispute") to a Board to be appointed by him, for promoting the settlement of the dispute between the under-raiyat and the landlord.

(4) A Board to be appointed by the Collector in the prescribed manner under sub-section (3) shall consist of a Chairman; who shall be unconnected with the dispute referred to such Board or with any party directly affected by such dispute and two members to represent the parties to the dispute and the person appointed as a member to represent any party shall be appointed on the recommendation of that party:

Provided that if any party does not nominate any person to represent him in the Board or nominates a person who is not available within such time as the Collector considers reasonable, the Collector may appoint Such person as he thinks fit to represent that party."

5. Bare reading of sub-section (4) would indicate that out of three members to be appointed, only one member i.e. Chairman of the Board is required to be unconnected with the dispute referred to the Board or with any party directly affected by the dispute referred to the Board. So far other two members are concerned, there is no such qualification and as a matter of fact, such person is appointed as member on the recommendation of the concerned party to represent him.

6. Therefore, the submission that the members other than the Chairman, should also be unattached, cannot be accepted. Since representative-members will be representing the under-raiyats or the landlord, they are bound to have attachment with the under-raiyat or the landlord, as the case may be. I do not find any merit in these applications. These writ applications are accordingly dismissed.