



2026:CGHC:17990



2026:CGHC:17990

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1704 of 2021

1 - Krishna Kumar Yadav S/o Bhauram Yadav Aged About 41 Years Village Bahtarayi Tehsil And District Bilaspur Chhattisgarh

... Petitioner(s)

versus

1 - Smt. Kiran Devi Wd/o Madanlal Saraf R/o Gondpara Bilaspur Tehsil And District Bilaspur Chhattisgarh.

2 - State Of Chhattisgarh Through The Collector Bilaspur Chhattisgarh

... Respondent(s)

For Petitioner(s)	:	Shri Shakti Raj Sinha, Advocate.
For Respondent No.1	:	Shri Badruddin Khan, Advocate.
For State/Respondent	:	Shri Ashutosh Shukla, PL.

Hon'ble Mr. Justice Amitendra Kishore Prasad Order on Board

21/04/2026

1. This Writ Petition has been filed against the order dated 01.02.2021 (Annexure P/8) passed by Board of Revenue, Bilaspur C.G. in case No.R.N. 02/R/B-121/158/2016 arising out of order dated 05.07.2016 (Annexure P/7) passed in Revenue Appeal case No.159/B-121/2015 -16 passed by Commissioner Bilaspur C.G.

2. The petitioner has prayed for the following reliefs:-

10.1 That, this Hon'ble Court may kindly be pleased to call for the entire records of the Case no. in R.N: 02/R/B-121/158/2016, from the Board of Revenue Bilaspur (C.G).

10.2 That, this Hon'ble Court may kindly be pleased to set aside



the impugned the order dated 01.02.2021 (ANNEXURE P/8) passed by Board of Revenue Bilaspur (C.G.) in Case No: R.N: 02/R/B-121/158/2016, arising out of order dated 05.07.2016 (ANNEXURE P/7) passed in Revenue Appeal Case No: 159/B-121/2015-16 passed by Commissioner Bilaspur (C.G).

10.3 Any other relief (s) that this Hon'ble Court may deem fit to grant in the facts and circumstances of this case.

3. Brief facts of the case are that Respondent no.1 filed an application before the Additional Tehsildar Bilaspur *inter alia* pleading that he is the owner of the land bearing Khasra No. 354, 355/1, 355/2, 357 Total Rakba 0.96 Acre situated at Bahtarayi Patwari No. 31 Bilaspur. In front of the same, it is a government land reserved for easement and on the said land, petitioner herein has constructed house as an encroacher therefore the said encroachment be demolished. Thereafter, the Additional Tehsildar registered a revenue case no. 265/B.121/2014-15 and called an inquiry report and spot inspection report from the concerned Patwari who in turn conducted the spot inspection and submitted its report dated 12.08.2015 along with Spot Inspection Report dated 11.08.2015 before the Tehsildar. The father of the petitioner namely Gendaram came to the lawful possession of this land in the year 1982 by obtaining certificate of Bhuswami Adhikar by the Tehsildar Bilaspur. Thereafter, the Additional Tehsildar passed an order dated 31.12.2015 (Annexure P/4) whereby allowed the application of the respondent no. 1 and directed to dispossess the encroachment of the petitioner from the land in dispute. It is pertinent to mention here this fact that in compliance of the order dated 31.12.2015, an Eviction Warrant dated 31.12.2015 was issued to the petitioner and even the revenue officer came to evict the petitioner but the eviction was not done as no encroachment was found



by them on the said land by the petitioner, therefore, a report was also prepared on the spot by revenue officer. Thereafter, the petitioner preferred an appeal being Appeal case No.76/B-121/2015-2016 before the Sub Divisional Officer (Revenue) Bilaspur (CG) and pleaded that since the father of the petitioner got the Bhumiswami Rights of the said land in revenue case no. 36/A-66/22-23 dated 08.12.1982 and since no opportunity to lead any evidence was given by the Additional Tehsildar, Bilaspur C.G. nor any oral evidence was recorded before passing the order of eviction, therefore, the order of Additional Tehsildar, Bilaspur C.G. deserved to be quashed but the S.D.O (Revenue), Bilaspur C.G. went on to dismiss the appeal of the petitioner vide order dated 21.03.2016 (Annexure P/6) holding that since the petitioner has not produced the original copy of Patta granted to the grandfather of the petitioner therefore appeal deserves to be dismissed. Thereafter, the petitioner filed an appeal being Appeal case No.159/B-121/2015-2016 before the Commissioner Bilaspur C.G. which was also dismissed vide order dated 05.07.2016 (Annexure P/7) whereby the order of the Additional Tehsildar, Bilaspur and S.D.O, Bilaspur were maintained. Challenging the order dated 05.07.2016 passed by the Commissioner Bilaspur, the petitioner herein filed a revision being case No.RN/02/R/B-121/158/2016 before the Board of Revenue, Chhattisgarh wherein after hearing the parties, the Board of Revenue went on to dismiss the revision of the petitioner holding that the petitioner has claimed that original patta was allotted to his grandfather Gendaram but has produced the photocopy of the same which could not be considered as an evidence and therefore maintained the order of the courts below and dismissed the revision of the petitioner vide its impugned order dated 01.02.2021 (Annexure P/8). Hence this Petition.



4. Learned counsel for the petitioner submits that without affording proper opportunity of hearing to the petitioner, the Additional Tehsildar, Bilaspur C.G. on the basis of complaint made by Respondent No.1/neighbour of petitioner, has passed the order against the petitioner holding that the petitioner is not having relevant patta as alleged by him as the petitioner did not produce the original patta and held that he is an encroacher of the land in question.
5. Learned counsel for the petitioner submits that in any case, proper opportunity of hearing to the petitioner was required to be afforded which has not been afforded by the revenue authorities in every proceeding right from the Additional Tehsildar to the Board of Revenue, which is improper. He submits that all the revenue authorities have held that since the original patta or relevant documents were not filed, the petitioner cannot be held to be the owner of the property in question on the basis of patta granted in favour of the grandfather of the petitioner namely Gendram. Learned counsel for the petitioner on that note submits that since he has not been afforded proper opportunity of hearing he could not file relevant documents. The original patta by elapse of time is not traceable, however, he is having various documents to demonstrate that the land in question was granted to his grandfather on patta. He submits that if an opportunity would have been granted by the revenue authorities to the petitioner to produce the said documents, he would have done so. Hence one more opportunity may be given to the petitioner to demonstrate the said fact and the revenue authorities after perusal of the same, may pass necessary orders in accordance with law.
6. Learned counsel for Respondent No.1/complainant submits that the impugned orders have rightly been passed by the revenue authorities which are not required to be interfered with.



7. Learned State counsel submits that revenue authorities have arrived at concurrent findings which is not required to be interfered with.
8. I have heard learned counsel for the parties and perused the documents available with the petition.
9. The dispute arose when Respondent No.1/neighbour of the petitioner lodged a complaint dated 05.08.2015 before the Collector, Bilaspur C.G., Sub-Divisional Officer, Bilaspur and Tehsildar, Bilaspur alleging that he is the owner of the land bearing Khasra No.354, 355/1, 355/2, 357, total rakba 0.96 acre situated at village Bahtarayi Patwari Halka No.107/20 Bilaspur and in front of the said land, there is Government land reserved for easement which the petitioner has encroached. Pursuant to the complaint, a revenue case was registered and, after spot inspection, the Additional Tehsildar passed an order dated 31.12.2015 (Annexure P/4) directing eviction of the petitioner treating him as an encroacher.
10. The petitioner contended that the land in question had been granted to his grandfather, Gendaram, in the year 1982 by way of Patta conferring Bhumiswami rights. However, since the original Patta was not produced and only a photocopy was filed, the authorities rejected his claim. His appeal before the Sub-Divisional Officer was also rejected vide order 21.03.2016 (Annexure P/6) and subsequent appeal before the Commissioner was also dismissed vide order dated 05.07.2016 (Annexure P/7). The revision filed before the Board of Revenue was also rejected vide order dated 01.02.2021 (Annexure P/8) on the same ground of non-production of the original Patta.
11. After hearing learned counsel for the parties and perusing the record, it appears that the primary ground on which the petitioner's claim has been rejected at every stage is non-production of the original Patta. The petitioner has



consistently claimed that Patta was granted in favour of his grandfather namely Gendram in the year 1982. The petitioner had produced a photocopy of the Patta.

12. The revenue authorities have declined to consider the petitioner's claim solely on the technical ground that the original Patta was not filed. There is no finding that the authorities made any effort to verify the authenticity of the alleged Patta from official revenue records. If the Patta was indeed issued by the competent authority, the corresponding record ought to exist in government archives.
13. It is trite law that in any proceeding, the concerned party is required to be given opportunity of hearing before passing any order against them, however, in the present case, it seems the same has not been done. The Hon'ble Supreme Court in the matter of **State Bank of India and others v. Rajesh Agarwal and others, (2023) 6 SCC 1** held in paragraphs Nos. 36 and 38, which reads as under:-

“36. We need to bear in mind that the principles of natural justice are not mere legal formalities. They constitute substantive obligations that need to be followed by decision-making and adjudicating authorities. The principles of natural justice act as a guarantee against arbitrary action, both in terms of procedure and substance, by judicial, quasi-judicial, and administrative authorities. Two fundamental principles of natural justice are entrenched in Indian jurisprudence : (i) nemo judex in causa sua, which means that no person should be a Judge in their own cause; and (ii) audi alteram partem, which means that a person affected by administrative, judicial or quasi-judicial action must be heard before a decision is taken. The courts generally favour interpretation of a statutory provision consistent with the principles of natural justice because it is presumed that the statutory authorities do not intend to contravene fundamental rights. Application of the said principles depends on the facts and circumstances of the case, express language and basic scheme of the statute under which the administrative power is exercised,



the nature and purpose for which the power is conferred, and the final effect of the exercise of that power. [Union of India v. J.N. Sinha, (1970) 2 SCC 458] .

38. *In Union of India v. W.N. Chadha [Union of India v. W.N. Chadha, 1993 Supp (4) SCC 260 : 1993 SCC (Cri) 1171] , a two-Judge Bench of this Court held that that providing an opportunity of hearing to the accused in every criminal case before taking any action against them would “frustrate the proceedings, obstruct the taking of prompt action as law demands, defeat the ends of justice and make the provisions of law relating to the investigation lifeless, absurd, and self-defeating” [Id, SCC p. 293, para 98.] . Again, a two-Judge Bench of this Court in Anju Chaudhary v. State of U.P. [Anju Chaudhary v. State of U.P., (2013) 6 SCC 384 : (2013) 4 SCC (Cri) 503] has reiterated that the Code of Criminal Procedure, 1973 does not provide for right of hearing before the registration of an FIR.*

14. This Court also in **WPS No.2927 of 2015 (Smt. Anusuiya Bai vs. State of Chhattisgarh and Others)** observed in paragraph 11 which reads as under:-

11. *The Supreme Court in **Dharampal Satyapal Ltd. v. CCE, (2015) 8 SCC 519 : 2015 SCC OnLine SC 489** at page 537 has held as under:*

"35. From the aforesaid discussion, it becomes clear that the opportunity to provide hearing before making any decision was considered to be a basic requirement in the court proceeding. Later on, this principle was applied to other quasi-judicial authorities and other tribunals and ultimately it is now clearly laid down that even in the administrative actions, where the decision of the authority may result in civil consequences, a hearing before taking a decision is necessary."

In article titled as Right To Hearing And Contracts of Service, (1972) 2 SCC J-9 it was observed that:

"The protection that the principle of audi alteram partem is designed to afford to an individual is in the nature of a right to a fair hearing. The principal characteristics of this right to a hearing are three, namely, (I) the right to be informed of the case one is to



meet at the hearing, (ii) the right to have notice of the time and place of hearing, and (iii) a reasonable amount of time between the date of notice and the actual date of hearing so as to enable one to prepare his defence."

Lord Hodson observed in Ridge v. Baldwin, (1963) 2 All ER 66, 71: (1964) AC 40, 64: that

"No one, I think, disputes that three features of natural justice stand out, (i) the right to be heard by an unbiased tribunal, (ii) the right to have notice of charges of misconduct, and (iii) the right to be heard in answer to these charges."

15. From perusal of the record, it appears that adequate opportunity was not granted to the petitioner to substantiate his claim by leading oral and documentary evidence. Merely on the basis of non-production of the original Patta, and without verification from official records, the petitioner has been treated as an encroacher. Such approach is not in consonance with principles of natural justice.
16. In view of the aforesaid discussion and in light of the aforesaid principles laid down by the Hon'ble Supreme Court, the impugned order dated 01.02.2021 (Annexure P/8) passed by the Board of Revenue, Bilaspur C.G. as well as the orders passed by the Commissioner, Bilaspur C.G. dated 05.07.2016 (Annexure P/7) and order dated 21.03.2016 (Annexure P/6) passed by SDO (Revenue), Bilaspur C.G. and order dated 31.12.2015 (Annexure P/4) passed by Additional Tehsildar, Bilaspur C.G., are set aside/quashed.
17. The matter is remitted back to the Additional Tehsildar, Bilaspur C.G. with a direction to afford proper opportunity of hearing to the petitioner, the State Government, and Respondent No.1, though Respondent No.1 does not have any right to dispute the *patta* as the matter is entirely between the petitioner and



the State. The petitioner shall be permitted to adduce oral as well as documentary evidence in support of his claim so that the case of the parties may be considered in accordance with law.

18. If the petitioner approaches the concerned authority within 15 days from the date of receipt of copy of this order, the Additional Tehsildar, Bilaspur C.G. shall entertain the matter and decide it afresh in accordance with law within a further period of 90 days from the date of receipt of the application.
19. Till the matter is decided afresh by the Additional Tehsildar, no coercive steps shall be taken against the petitioner.

Sd/-

(Amitendra Kishore Prasad)
Judge

Avinash