

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2219 of 2017**

- Rajesh Agrawal S/o Late Shri Ramrasal Agrawal, Aged About 62 Years R/o 37/709, Ground Floor, Ahmadji Coloni, Nalghar Chowk, Raipur, District- Raipur, Chhattisgarh.

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue, Mahanadi Bhavan, Village Rakhi, New Raipur, District Raipur, Chhattisgarh.
2. Board Of Revenue, Through Its President, Bilaspur, District Bilaspur, Chhattisgarh.
3. Asit Kumar Agrawal, S/o Late Shri Ramrasal Agrawal, Aged About 58 Years R/o 37/709, Ground Floor, Ahmadji Colony, Nalghar Chowk, Raipur, District- Raipur, Chhattisgarh.
4. Mangal Vinod Agrawal, S/o Late Shri Ramrasal Agrawal, Aged About 65 Years R/o Purani Basti, Baniya Para, Raipur, District- Raipur, Chhattisgarh.
5. Smt. Kumud Agrawal W/o Dr. Ramnivarman Agrawal, Aged About 68 Years R/o Village- Ghodari, Nadi Mod, Tahsil And District- Mahasamund Chhattisgarh.
6. Smt. Kamal Agrawal, W/o Late Shri Mahendra Agrawal, Aged About 61 Years R/o Purani Basti, Baniya Para, District- Raipur, Chhattisgarh.
7. Ramji Lal Agrawal, S/o Late Shri Madhusudan Lal, R/o Baniya Para, Purani Basti, Raipur, District- Raipur, Chhattisgarh.
8. Yashoda Bai Agrawal W/o Late Shri Satyanarayan Agrawal, R/o Baniya Para, Purani Basti, Raipur, Chhattisgarh.
9. Sakharam Pal S/o Purushottam, R/o Village- Kurra, Tahsil And District- Raipur, Chhattisgarh.
10. Radheshyam Sharma, S/o Shri Bhuvan Lal Sharma, R/o Near Suhaga Temple, Bramhan Para, Raipur, District- Raipur, Chhattisgarh.
11. Sanjay Agrawal, S/o Ramrasal Agrawal, R/o Bania Para, Infront Of Ramu Maharaj House, Purani Basti, Raipur, District- Raipur, Chhattisgarh.

---- Respondent

For Petitioner : Shri Yogesh Pandey, Advocate.
For Respondent/State : Shri Shashank Thakur, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

20/08/2018

1. The Board of Revenue has rejected the petitioner's application for review of order passed by it on 12.8.2002 in a proceeding under the Chhattisgarh Ceiling on Agricultural Holdings Act, 1960 (for short 'the Ceiling Act'). The Board of Revenue has taken a view that there is no provision for review of an order passed by an authority exercising the jurisdiction under the Ceiling Act, therefore, the review application is not maintainable.
2. The petitioner's counsel would refer to the judgment rendered by the M.P. High Court in the matter of **Ramdin Hazarilal and Others Vs. State of M.P. and Others** {1979 LawSuit (MP) 202} to argue that even if there is no express power of review conferred on the ceiling authorities under the Ceiling Act, such power of review is to be read to have been conferred on the authority by virtue of Section 51 of the CG Land Revenue Code (for short 'the Code').
3. A short issue falling for consideration in this writ petition is – whether in the absence of any statutory prescription conferring power on the authorities under the Ceiling Act, the Board of Revenue could have

exercised power to review its own order?

4. The Ceiling Act has been enacted to provide for the imposition of ceiling on agricultural holdings, acquisition and disposal of surplus land and matter ancillary thereto, with a view to provide for a more equitable distribution of land. The Act authorizes the State Government to distribute surplus land vesting in the Government to needy persons and cooperative farming societies on payment of occupancy price. The word 'competent authority' under the Act has been defined under Section 2 (e), who are mainly the Revenue Officers of the rank of SDO/Deputy Collector, Collector/Additional Collector and Commissioner. The Act has made other provisions regarding fixation of ceiling area, determination of surplus land and acquisition thereof under Sections 6 to 21. These provisions prescribe the procedure to be followed by the competent authority to declare surplus land and distribution thereof after the surplus land would vest in the State Government. The procedure prescribed in these sections have not applied the provisions of the Code, which are required to be followed. Section 41 of the Ceiling Act provides for Appeals against every order of Revenue Officers or the competent authority under the Act whereas Section 42 provides for revision before the Board of Revenue or Commissioner. However, both the provisions do not mandate that while hearing Appeals or Revisions, as the case may be, the authority shall follow the procedure prescribed under the Code. Section 49 provides that the provisions of the Act and any rules made thereunder shall have effect, notwithstanding anything inconsistent

therewith contained in any other enactment for the time being in force or any custom, usage or agreement or decree or order of a Court or other authority. Thus, the entire Act does not make any provision conferring on any of the authorities i.e. either competent authority, appellate authority or the revisional authority the power to review its own order.

5. In the matter of **Ramdin Hazarilal** (Supra), the M.P. High Court has taken recourse to the provisions contained in Section 51 of the Code to hold that the authorities exercising power under the Ceiling Act being the revenue authorities, are competent to review their orders by virtue of Section 51 of the Code.

6. It appears, the M.P. High Court has not considered that the Ceiling Act is an independent statute which does not confer any power to review on the authorities dealing with the matters under the Act. Merely because the officers also happen to be the Revenue Officers, they do not become the authority dealing with any matter under the Code, otherwise whenever a Revenue Authority is conferred power under some special enactment in which there is no power to review, they would always be exercising such power of review by virtue of Section 51 of the Code. Such legal position is in conflict with the law laid down by the Supreme Court in the matter of **Patel Chunibhai Dajibha, etc., Vs. Narayanrao Khanderao Jambekar and another**¹ wherein the Supreme Court was dealing with the power of the Collector under the Bombay Tenancy and Agricultural Lands Act,

¹ AIR 1965 SC 1457

as it then existed and the Supreme Court was pleased to observe that the orders passed by the Collector were quasi judicial and final, therefore, when the Act does not empower the Collector to review an order passed by him, he could not have subsequently reconsidered his decision.

7. In the matter of **State of Madhya Pradesh and others Vs. Balkishan Nathani and others**², the Supreme Court was dealing with the matter under the Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950. In the said Act also Section 84 provided that except where the provisions of the Act provide otherwise, from every decision or order of a **Revenue Officer** under this Act or the rules made thereunder, an appeal shall lie as if such decision or order has been passed by such officer under the Central Provinces Land Revenue Act, 1917, or the Berar Land Revenue Code, 1928, as the case may be. Despite these provisions, the Supreme Court in para-9 of the report held that there is no provision in the Act which authorized the Deputy Commissioner to review an order made by him under the Act and, therefore, an order made by him, subject to appeal, becomes final and there is no provision under the Act for reviewing them.
8. The law with regard to power to review when there is no express provision in the statute has been succinctly settled by the Supreme Court in the matter of **Patel Narshi Thakershi and others Vs. Pradyumansinghji Arjunsinghji**³, which again was a matter under the

² AIR 1967 SC 394

³ AIR 1970 SC 1273

Saurashtra Land Reforms Act, 1951. In para-4 of the report, the Supreme Court has held that power to review is not inherent power. It must be conferred by law either specifically or by necessary implication. No provision in the Act was brought to notice from which it could be gathered that the Government had power to review its own order. If the Government had no power to review its own order, it is obvious that its delegate could not have reviewed its order.

9. Following the judgment in the matter of **Patel Narshi Thakershi** (Supra), the Division Bench of Patna High Court in the matter of **Tetar Mandal and others Vs. Executive Officer and Others**⁴, Single Bench of Allahabad High Court in the matter of **Kailash Singh Rajput Vs. Ram Prakash**⁵ and another Single Bench of the Bombay High Court in the matter of **M/s National Hotel and others Vs. Mrs. Rukaiyabai and others**⁶ have taken similar view that unless the Act provides for review of the order, the authorities under the statute cannot exercise inherent power to review its order in the absence of conferment of power.

10. Since in the case at hand also, the Ceiling Act does not confer power to review on any of the authority under the Act i.e. either competent authority or appellate or revisional authority and there being no provision that the authorities under the Act shall follow the procedure prescribed under the Code while deciding the matters under the Ceiling Act, the Board of Revenue has rightly dismissed the

4 AIR 1978 PATNA 326

5 AIR 1979 ALLAHABAD 110

6 AIR 1985 BOMBAY 403

petitioner's application for review.

11. The Writ Petition being devoid of any substance deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve



HEADLINES

Orders passed by the authorities under the CG Ceiling On Agricultural Holdings Act, 1960 is not amenable to review, as the statute does not confer, express or imply power of review.

