

Court No. - 8

Case :- WRIT - A No. - 4478 of 2023

Petitioner :- Shyam Kumar

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Gram Vikas U.P. Lko. And 5 Others

Counsel for Petitioner :- Ganesh Nath Mishra,Ajeet Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh,J.

1. Heard learned counsel appearing for the accused-petitioner and Sri Sandeep Sharma, learned Standing Counsel appearing for the State.
2. Present petition under Article 226 of the Constitution of India has been filed by the petitioner challenging the order dated 10.11.2020 whereby the petitioner and two other employees of Chetra Panchyat, Tarabganj have been saddled with penalty of Rs.4,19,000/- to be recovered from their salaries.
3. Central Government disburses funds for carrying out development work in rural areas under MGNREGA scheme. In the year 2019-2020, when the petitioner was working as Accountant in the Chetra Panchyat, Tarabganj, work of Rs.12,57,000/- was carried out. Said work was allotted to one M/S Ram Krishna Construction, Gonda, however, during enquiry, it has been found that work for which Rs.12,57,000/- was disbursed, had already been done under the different scheme and without carrying out any work, Rs.12,57,000/- was paid to Ram Krishna Construction, Gonda and thus, the said amount was allegedly misappropriated by the petitioner and two other employees in criminal conspiracy with M/S Ram Krishna Construction, Gonda.
4. After enquiry, an FIR at Case Crime No.376 of 2020 under Sections 419, 420, 409 IPC was registered. The petitioner was arrested. His bail was rejected by learned Sessions Court. However, this Court enlarged the petitioner on bail vide order dated 06.07.2022 in Criminal Misc. Bail Application No.2442 of 2022.
5. Central Government in its notification dated 03.01.2014 has provided that in case if it is found that some amount meant for development work got misappropriated under MGNREGA scheme, same should be realised from

the concerned responsible officers/employees/persons.

6. Learned counsel appearing for the petitioner submits that the petitioner being the Accountant was not responsible for execution of the work. He processed the bills, which were submitted for payment and, therefore, he should not be held responsible. Second submission of learned counsel appearing for the petitioner is that charge-sheet was issued to the petitioner containing three charges, in which the enquiry officer has found only one charge proved and final decision on the enquiry has yet to be taken by the competent authority. He, therefore, submits that saddling the penalty of Rs.4,19,000/- is baseless.

7. Sri Sandeep Sharma, learned Standing Counsel disputes the said contention and submits that departmental proceedings and disciplinary proceedings are distinct from the proceedings under which the petitioner has been saddled with the penalty of Rs.4,19,000/-. Power for saddling such penalty is provided under Central Government dated 03.01.2014 itself. He, therefore, submits that there is no illegality which requires this Court to interfere with the impugned order inasmuch as the amount of Rs.12,57,000/- got misappropriated by the petitioner and two other employees, who have also been saddled with the penalty of same amount.

8. I agree with the submissions of the learned Standing Counsel appearing for the State that the impugned order has been passed under the power vested in the Central Government notification dated 03.01.2014. I find no substance in the writ petition, which is hereby **dismissed**.

(Dinesh Kumar Singh, J.)

Order Date :- 3.7.2023
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