

Court No. - 8

Case :- WRIT - A No. - 4964 of 2023

Petitioner :- Pawan Kumar Gupta

Respondent :- State Of U.P. Thru. Addl . Chief Secy. Deptt. Rural Development Lko. And 3 Others

Counsel for Petitioner :- Alok Kr. Misra, Surjeet Kumar Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh, J.

1. Heard learned counsel appearing for the petitioner and learned Additional Chief Standing Counsel appearing for the State.

2. Present petition under Article 226 of the Constitution of India has been filed seeking following reliefs:-

"(i) Issue writ order or direction in the nature of certiorari for quashing the impugned order dated 19.04.2023 passed by opposite party No.2, dated 11.05.2023 passed by opposite party No.3 and order dated 25.05.2023 passed by opposite party No.4, contained as Annexure No.1, 2 & 3 in the interest of justice.

(ii) Issue writ order or direction in the nature of mandamus commanding to concerned opposite parties that they not recover the amount in question on the basis of impugned order, in the interest of justice.

(iii)..."

3. While the petitioner was posted in the concerned Gram Panchayat as Village Development Officer, certain works under MGNREGA were executed. In enquiry it has been found that gross irregularities and misappropriation/embezzlement of funds were done by the petitioner and others.

4. Taking note of Government of India' circular and direction as well as the Government orders issued on 02.05.2008, proportionate amount of Rs.13,94,831/- has been directed to be recovered from the petitioner.

5. Sri Alok Mishra, learned counsel appearing for the petitioner has made only one submission i.e. before passing the impugned order, the petitioner was not afforded any opportunity of hearing. Impugned order is of civil consequence and, therefore, opportunity of hearing must have been afforded

to the petitioner before passing the impugned order.

6. Sri Pratul Kumar Srivastava, learned Standing Counsel does not dispute the assertion on behalf of the petitioner that no opportunity of hearing was afforded to the petitioner before passing the impugned order.

Sri Pratul Kumar Srivastava, learned Standing Counsel has also received instructions, and in the instructions, also there is nothing to show that the petitioner was afforded any opportunity of hearing.

7. As this Court finds that there has been violation of principal of natural justice and the petitioner's right under Article 14 of the Constitution of India got violated, impugned order dated 19.04.2023 so far as the petitioner is concerned is set aside. Respondent No.3 is directed to pass a fresh order in accordance with law, after affording an opportunity of hearing to the petitioner.

8. The petition is allowed.

(Dinesh Kumar Singh, J.)

Order Date :- 13.7.2023
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