

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8198 of 2015

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1. Kedar Prasad Rajak, S/o Late Rajo Rajak R/o Village- Hirodih, P.S.- Rajauli, District- Nawada.
 2. Md. Hassibur Rahman, S/o Late Abdul Qaiyum Khan, R/o Village- Premdihu, P.S.- Halsi, District- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar through the District Education Officer, Lakhisarai.
2. The D.P.O., Serva Siksha Programm, Lakhisarai.
3. The District Programme Officer, Lakhisarai.
4. The Block Education Officer, Ramgarh Chowk, Lakhisarai.
5. The Block Education Officer, Halsi.
6. The District Education Officer, Lakhisarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 05-08-2015

Heard learned counsel for the parties as with regard to the

following relief prayed in this writ application :

"1. That the present writ application is being filed for challenging the order dated 21.04.2015 issued under the signature of District Programme Officer, primary Education Officer, Bihar Education Project, Lakhisarai fully contained in memo no 1369 whereby and whereunder it has been recommended to DEO to recover Rs. 9,06,880/- (nine lacs six thousand three hundred fifty) from the salary of the petitioners against the enhancement cost of construction of building of Kastoorba Gandhi Balika Vidyalaya, Halsi and also made a request to taking appropriate action against the petitioners. By the same order the B.E.O. Halsi & Ramgarh Chowk was directed to not issue L.P.C. in favour of petitioners."

2. Let it be also noted that the petitioner has also I.A. No. 4626/2005 wherein following additional prayer has been made :-

"That the present I.A. application is being filed for modifying the prayer to the extent to also challenged the order dated 14.05.2015 passed by District Programme Officer, Primary Education, Bihar Education Project, Lakhisarai fully contained in letter no. 1468 whereby and whereunder the petitioners were directed to deposit Rs. 9,20,883.00 (Nine lacs twenty thousand eight hundred eighty in the A/c of Building Construction otherwise recommendation has been sent to Director Primary Education to take action."

3. This Court does not find any reason to interfere with either of the two orders in respect of the two petitioners assailed in this writ application namely, order dated 21.04.2015, as contained in Annexure-9, written by the District Programme Officer, Primary Education Bihar Education Project, Lakhisarai to the District Education Officer, Lakhisarai directing him not to issue last pay certificate to the petitioners till realization of the amount from them or the consequential order dated 14.5.2015 issued by the District Programme Officer, Primary Education, Bihar Education Project, Lakhisarai to the petitioners for depositing the amount of Rs. 9,20,883.00 inasmuch as what has been stated therein is only the obvious.

4. According to the learned counsel for the respondents, some money which was entrusted to the petitioners for construction of the building and on account of certain negligence on their part, the work having been not completed, the authorities have found such

amount to be recoverable from the petitioners. Consequently, firstly, it was written that the last pay certificate should not be issued to the petitioners as they have been transferred and realization of such amount from them become difficult. Secondly, the petitioners were asked to deposit the amount failing which they could be subjected to legal consequence.

5. Either of the two orders has not been complied by petitioners who could have very well explained by filing a representation, on receipt of the order dated 14.05.2015, that they are not wholly responsible in either causing the delay in completion of the project or in any manner liable for recovery of Rs. 9,20,883/-.

6. The submission of learned counsel for the petitioners that the petitioners had subsequently deposited Rs. 2,85,940/-, and/or filing of the F.I.R. against them cannot be a circumstance to be for holding them liable for temporary embezzlement of the amount entrusted to them and thus no action was required to be taken against them, are also such factual aspect which could be looked into by the authorities, who has passed the impugned orders inasmuch as no concluded cause of action had arisen for the petitioners to move this Court.

7. This Court, in exercise of power under Article 226 of the Constitution of India, is not supposed to monitor the accounting of money of the project and responsibility being fixed by the authority for recovery of such amount from the petitioners.

8. This writ application, in fact, is wholly misconceived and is, accordingly, dismissed.

9. Nothing said in this order however will come in the way of the petitioners in approaching the authority issuing order dated 14.05.2015 asking them to refund the amount and explain their case so as to enable the authority to take his further decision in accordance with law.

(Mihir Kumar Jha, J)

Sujit/-

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