

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19532 of 2014

=====

Priyanka Vidyut And Jhankar, Udwant Nagar, Bhojpur, through its proprietor Uma Shankar Sharma son of Late Shiv Jatan Sharma resident of village + P.O. + P.S. Udwant Nagar, District Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Bhojpur, Arrah.
3. The Additional Collector, Bhojpur, Arrah.
4. The Block Development Officer, Udwant Nagar, Bhojpur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.

For the Respondent/s : Mr. Kumari Amrita, GP10)

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 07-01-2015 Heard learned counsel for the parties as with regard to the following relief prayed in this writ application:-

"1(I) A writ in the nature of Mandamus or any other appropriate writ/order or direction directing the respondents to pay Rs. 1,22,600/- (One lac twenty two thousand six hundred only) to the petitioner alongwith 12% interest against the work done/articles supplied by the petitioner during 2011-12 Social Economic and Caste Census in Udwant Nagar Block in the district of Bhojpur."

Learned counsel for the petitioner has submitted that there was an understanding between the petitioner and the Block Development Officer, Udwant Nagar, Bhojpur (Respondent No.4) that the petitioner would be paid the hire charges of generator and electric fan as per the rate prescribed in the election programme of



the year 2009 but, whatever offer of payment was made to the petitioner was much lesser than the amount fixed for the election programme. In this regard he has explained that the petitioner was actually entitled to get the payment at the rate Rs. of 1050 per day for the supply of generator with fuel and likewise Rs. 40 per day for each fan but, the amount, which was offered to the petitioner, was only Rs. 650 per day for the generator and Rs. 20 per day for each fan. Learned counsel for the petitioner, therefore, submits that this Court should now direct the respondent to pay a sum of Rs. 1,22,600/- on the basis of rate already fixed for election programme.

Mrs. Kumari Amrita, GP-10, learned counsel for the State on the other hand submits that the petitioner having not produced any work order/supply order cannot be allowed to make his claim on mere speculation. She explains that as a matter of fact, whatever amount was admissible to the petitioner for supply of generator and fan was also offered to the petitioner but he himself did not accept the same under a protest as is born out from the representation filed by the petitioner to the Collector of Bhojpur district.

Learned counsel for the petitioner in reply has relied on a note-sheet of a dealing clerk placed before the Block



Development Officer to contend that a sum of Rs. 63,800/-, though being the reduced amount was found to be payable as per the order of the Block Development Officer and, therefore, this Court should direct the respondents to make payment of the aforesaid amount inasmuch that was/is definitely an admitted amount.

In the considered opinion of this Court, it will be very difficult for this Court to hold that a note-sheet of a dealing clerk or some endorsement allegedly of the Block Development Officer should become basis for issuing a direction for this court for making payment to the petitioner. This Court, in fact had expected that the respondents would file their counter affidavit and would clarify the position. No counter affidavit however has been filed but, then, the petitioner also has not discharged the onus of proving his case for getting any direction in the shape of relief prayed for as has been quoted above.

In such a situation, all that this Court can do is to direct the Collector of Bhojpur district to examine the claim of the petitioner and also ensure that whatever admitted amount is found payable to the petitioner, the same should be paid to him within a period of three months from the date of production/receipt of this order by the Collector of the district.



In order to expedite this exercise by the Collector of the district, this Court would also give liberty to the petitioner to file a self-contained representation along with evidence, if any, for claiming the amount, in question, and the Collector of the District shall dispose of such representation of the petitioner as also would direct for making payment to the petitioner, if any, within the aforesaid period of three months.

Let it be also made clear that this Court has not given any conclusive findings with regard to the claim of the either party as noted above in this order and, therefore, it will be open for the Collector of the district to take his own decision strictly in accordance with law.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

Rishi/-

U			
---	--	--	--