

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18527 of 2013

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Smt. Radhika Devi W/o Shri Bhol Sah, resident of village- Katgenwa, P.O-
Wakhtaura, P.S- Adapur Darpa, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-Ordinator,
Mahatma Gandhi National Rural Employment Guarantee, East
Champaran.
3. The Senior Deputy Collector-cum-Enquiry Officer, District- Legal Cell,
Motihari, East Champaran.
4. The Executive Engineer, Triveni Nahar Division, Raxaul.
5. The Circle Officer, Block and Anchal- Adapur, District- East
Champaran
6. The Junior Engineer of the Panchayat Raj- Dubhan, Block and Anchal-
Adapur, District- East Champaran. The Programme Officer, Anchal-
Adapur, District- East Champaran.
7. The Panchayat Technical Assistant of Panchayat Raj- Dubhan, Block
And Anchal- Adapur, District- East Champaran.
8. The Rozgar Sewak of Panchayat Raj, Dubhan, Block and Anchal-
Adapur, District- East Champaran.
9. Smt. Malti Devi W/o Shri Surendra Sahni, Ex- Mukhiya of Panchayat
Raj- Dubhan, resident of Village- Bagahi, P.O- Bakhtaura, P.S- Darpa,
District- East Champaran.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.18554 of 2013

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Smt. Sangeeta Devi W/o-Shri Ram Jeevan Baitha, resident of Village -
Gamhariya Khurd, P.O.-Gamharia Khurd, P.S.-Adapur, District-East
Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-Ordinator,
Mahatma Gandhi National Rural Employment Guarantee, East
Champaran
3. The Senior Deputy Collector-cum-Enquiry Officer, District Legal Cell,
Motihari, East Champarn
4. The Executive Engineer, Triveni Nahar Division, Raxaul
5. The Circle Officer, Block - Adapur, District - East Champaran
6. The Junior Engineer of the Panchayat Raj - Murtiya, Block and Anchal -
Adapur, District - East Champaran
7. The Programme Officer, Anchal-Adapur, District - East Champaran
8. The Panchayat Technical Assistant of Panchayat Raj-Murtiya, Block

and Anchal-Adapur, District-East Champaran

9. The Rozgar Sewak of Panchayat Raj-Murtiya, Block and Anchal - Adapur, District- East Champaran

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.22202 of 2013

=====

Smt. Usha Devi W/o Shri Shashi Bhushan Kumar, resident of Village- Bakhari, P.O.- Latihanwa, P.S.- Adapur, District- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-Ordinator, Mahatma Gandhi National Rural Employment Guarantee, East Champaran
3. The Senior Deputy Collector-cum-Enquiry Officer, District Legal Cell, Motihari, East Champaran
4. The Executive Engineer, Triveni Nahar Division, Raxaul
5. The Circle Officer, Block- Adapur, District- East Champaran
6. The Junior Engineer Of the Panchayat Raj-Bakhari, Block-Adapur, District- East Champaran
7. The Programme Officer, Anchal- Adapur, District- East Champaran
8. The Panchayat Technical Assistant of Panchayat Raj- Bakhari, Block - Adapur, District- East Champaran
9. The Rozgar Sewak of Panchayat Raj-Bakhari, Block-Adapur, District- East Champaran
10. Shri Ram Ekbal Prasad Yadav S/o not known to this Petitioner Ex-Mukhia of Panchayat Raj-Bakhari, Block-Adapur, District- East Champaran

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.20017 of 2013

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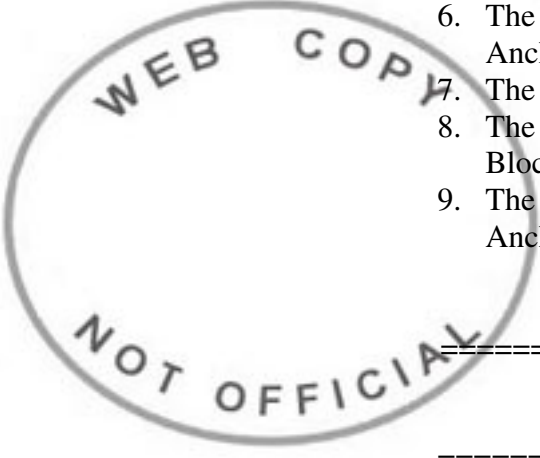
Smt. Abha Devi W/o- Shri Dina Nath Sah, resident of Village - Khairwa, P.O. - Garhiya, P.S.- Madhuban, District- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-Ordinator, Mahatma Gandhi National Rural Employment Guarantee, East Champaran
3. The Senior Deputy Collector-cum-Enquiry Officer, District Legal Cell, Motihari, East Champaran
4. The Executive Engineer, Triveni Nahar Division, Raxaul



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5. The Circle Officer, Block and Anchal-Madhuban, District-East Champaran
 6. The Junior Engineer of the Panchayat Raj - Punas Lahladpur, Block and Anchal - Tetaria, District - East Champaran
 7. The Programme Officer, Anchal - Tetaria, District - East Champaran
 8. The Panchayat Technical Assistant of Panchayat Raj - Punas Lahladpur, Block And Anchal - Tetaria, District - East Champaran
 9. The Rozgar Sewak of Panchayat Raj-Punas Lahladpur, Block and Anchal - Tetaria, District - East Champaran

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.20531 of 2013

=====

Smt. Sima Giri W/o Shri Anil Kumar Giri, resident of Village-Nakardei, P.O. Nuniyadih, P.S. Nakardei, District - East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-ordinator, Mahatma Gandhi National Rural Employment Guarantee, East Champaran
3. The Senior Deputy Collector-cum-Enquiry Officer, District Legal Cell, Motihari, East Champaran
4. The Executive Engineer, Triveni Nahar Division, Raxaul
5. The Circle Officer, Block & Anchal-Adapur, District-East Champaran
6. The Junior Engineer of the Panchayat Raj Nakardei, Block & Anchal-Adapur, District-East Champaran
7. The Programme Officer, Anchal-Adapur, District-East Champaran
8. The Panchayat Technical Assistant of Panchayat Raj-Nakardei, Block & Anchal-Adapur, District-East Champaran
9. The Rozgar Sewak of Panchayat Raj-Nakardei, Block & Anchal-Adapur, District-East Champaran
10. Smt. Poonam Devi, W/o Shri Ram Ekbal Yadav, resident of village-Sirisiya Man, P.O. Nuniyadih, P.S. Nakardei, District-East Champaran

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.18557 of 2013

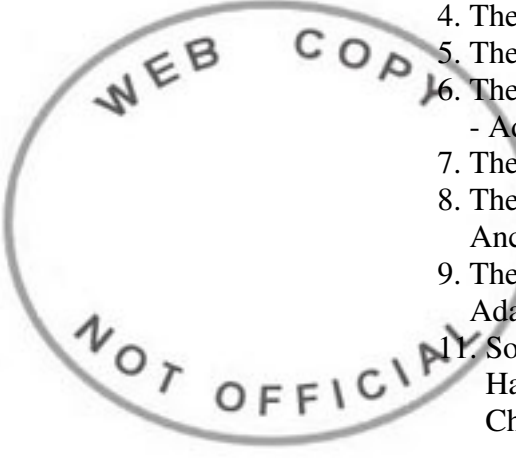
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Smt. Saraswati Devi W/o - Shri Mohan Prasad, resident of Village - Nayak Tola, P.O. + P.S. - Harpur, District - East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-Ordinator, Mahatma Gandhi National Rural Employment Guarantee, East Champaran

- 
3. The Senior Deputy Collector-cum-Enquiry Officer, District Legal Cell, Motihari, East Champaran
 4. The Executive Engineer, Triveni Nahar Division, Raxaul
 5. The Circle Officer, Block - Adapur, District - East Champaran
 6. The Junior Engineer of the Panchayat Raj - Harpur, Block and Anchal - Adapur, District - East Champaran
 7. The Programme Officer, Anchal- Adapur, District - East Champaran
 8. The Panchayat Technical Assistant of Panchayat Raj- Harpur, Block and Anchal - Adapur, District - East Champaran
 9. The Rozgar Sewak of Panchayat Raj - Harpur, Block and Anchal – Adapur, District - East Champaran
 11. Soni Devi W/o- Shri Arvind Prasad Sah Ex-Mukhiya of Panchayat Raj - Harpur, resident of Village- Harpur, P.O. + P.S. - Harpur, District- East Champaran

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.18617 of 2013

=====

Md. Hussain Ansari S/o- Late Ainul Ansari, resident of Village + P.O.- Gamharia Kala, P.S.- Darpa, District- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-Ordinator, Mahatma Gandhi National Rural Employment Guarantee, East Champaran
3. The Senior Deputy Collector-Cum-Enquiry Officer, District Legal Cell, Motihari, East Champaran
4. The Executive Engineer, Triveni Nahar Division, Raxaul
5. The Circle Officer, Block and Anchal-Adapur, District- East Champaran
6. The Junior Engineer of The Panchayat Raj- Gamhariya Kala, Block - Adapur, District- East Champaran
7. The Programme Officer, Anchal- Adapur, District- East Champaran
8. The Panchayat Technical Assistant of Panchayat Raj- Gamhariya Kala, Block and Anchal- Adapur, District- East Champaran
9. The Rozgar Sewak of Panchayat Raj- Gamhariya Kala, Block and Anchal- Adapur, District- East Champaran
10. Vigu Mukhiya, S/o Shri Bnotu Mukhiya, resident of Village- Belahiya, P.O.+P.S.- Gamhariya Kala, District- East Champaran

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.18792 of 2013

=====

Smt. Anjana Devi W/o Shri Tripurari Pandey, resident of Village- Shaympur, P.O. + P.S.- Adapur, District- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-Ordinator, Mahatma Gandhi National Rural Employment Guarantee, East Champaran
3. The Senior Deputy Collector-cum-Enquiry Officer, District Legal Cell, Motihari, East Champaran
4. The Executive Engineer, Triveni Nahar Division, Raxaul
5. The Circle Officer, Block- Adapur, District- East Champaran
6. The Junior Engineer of the Panchayat Raj- Shyampur, Block and Anchal- Adapur, District- East Champaran
7. The Programme Officer, Anchal- Adapur, District- East Champaran
8. The Panchayat Technical Assistant of Panchayat Raj- Shyampur, Block And Anchal- Adapur, District- East Champaran
9. The Rozgar Sewak of Panchayat Raj- Shyampur, Block and Anchal- Adapur, District- East Champaran
10. Smt. Rubaida Khatoon W/o Shri Anwar Alam resident of Village- Unchidih, P.S.- Harpur, District- East Champaran

.... Respondent/s

with

Civil Writ Jurisdiction Case No.19596 of 2013

Smt. Mandavi Devi W/o Shri Mahesh Prasad Yadav, resident of Village- Semrahan, P.O.- Semrahan, P.S.- Rajepur, District- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-Ordinator, Mahatma Gandhi National Rural Employment Guarantee, East Champaran
3. The Senior Deputy Collector-cum-Enquiry Officer, District Legal Cell, Motihari, East Champaran
4. The Executive Engineer, Triveni Nahar Division, Raxaul
5. The Circle Officer, Block and Anchal-Tetariya, District- East Champaran
6. The Junior Engineer of the Panchayat Raj-Semrahan, Block And Anchal- Tetariya, District- East Champaran
7. The Programme Officer, Anchal- Tetariya, District- East Champaran
8. The Panchayat Technical Assistant of Panchayat Raj- Semrahan Block And Anchal- Tetariya, District- East Champaran
9. The Rozgar Sewak of Panchayat Raj- Semrahan Block and Anchal- Rajepur, District- East Champaran
10. Smt. Krishna Devi W/o Sri Krishna Chandar Ex-Mukhiya of Panchayat Raj- Semrahan, Block and Anchal- Tetariya, resident of village- Narayanpur, P.O.- Nakardei, P.S.- Rajepur, District- East Champaran

.... Respondent/s

with

Civil Writ Jurisdiction Case No.19893 of 2013

Raj Kumar Singh, S/o Shri Gramdeo Singh, resident of village+P.O. Barwa,
P.S. Adapur, District-East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-ordinator, Mahatma Gandhi National Rural Employment Guarantee, East Champaran
3. The Senior Deputy Collector-cum-Enquiry Officer, District Legal Cell, Motihari, East Champaran
4. The Executive Engineer, Triveni Nahar Division, Raxaul.
5. The Circle Officer, Block & Anchal-Adapur, District-East Champaran
6. The Junior Engineer of the Panchayat Raj-Barwa, Block & Anchal-Adapur, District-East Champaran
7. The Programme Officer, Anchal-Adapur, District-East Champaran
8. The Panchayat Technical Assistant of Panchayat Raj-Barwa, Block & Anchal-Adapur, District-East Champaran
9. The Rozgar Sewak of Panchayat Raj-Barwa, Block & Anchal-Adapur, District-East Champaran
10. Shri Anil Dubey, S/o Late Satyadeo Dubey, resident of village + P.O. Barwa, P.S. Adapur, District-East Champaran

.... Respondent/s

with

Civil Writ Jurisdiction Case No.19912 of 2013

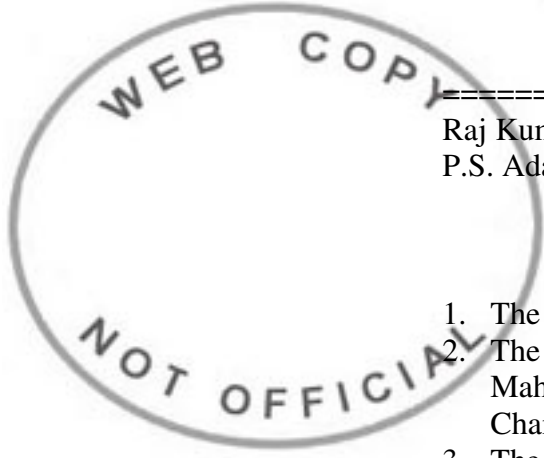
Smt. Mahapati Devi, W/o Shri Indradeo Prasad, resident of village-Ujhilpur,
P.O. Nakardei, P.S. Rajpur, District-East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-ordinator, Mahatma Gandhi National Rural Employment Guarantee, East Champaran
3. The Senior Deputy Collector-cum-Enquiry Officer, District Legal Cell, Motihari, East Champaran
4. The Executive Engineer, Triveni Nahar Division, Raxaul
5. The Circle Officer, Block & Anchal-Tetariya, District-East Champaran
6. The Junior Engineer of the Panchayat Raj Meghua, Block & Anchal-Tetariya, District-East Champaran
7. The Programme Officer, Anchal-Tetariya, District-East Champaran
8. The Panchayat Technical Assistant of Panchayat Raj-Meghua, Block & Anchal-Tetariya, District-East Champaran
10. The Rozgar Sewak of Panchayat Raj-Meghua, Block & Anchal-Tetariya, District-East Champaran

.... Respondent/s



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with

Civil Writ Jurisdiction Case No.19950 of 2013

=====

Smt. Sumitra Devi W/o Shri Anirudh Singh, resident of Village- Arara, P.O.
+ P.S.- Adapur, District- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-Ordinator, Mahatma Gandhi National Rural Employment Guarantee, East Champaran
3. The Senior Deputy Collector-cum-Enquiry Officer, District Legal Cell, Motihari, East Champaran
4. The Executive Engineer, Triveni Nahar Division, Raxaul
5. The Circle Officer, Block and Anchal-Adapur, District- East Champaran
6. The Junior Engineer of the Panchayat Raj- Belwa, Block and Anchal-Adapur, District- East Champaran
7. The Programme Officer, Anchal- Adapur, District- East Champaran
8. The Panchayat Technical Assistant of Panchayat Raj- Belwa, Block and Anchal- Adapur, District- East Champaran
9. The Rozgar Sewak Panchayat Raj- Belwa, Block and Anchal- Adapur, District- East Champaran

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.19996 of 2013

=====

Mariyam Khatoon W/o- Shri Nuruddin Sah, resident of Village- Yamunapur, P.O. - Auraiya, P.S. - Adapur, District - East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Programme Co-Ordinator, Mahatma Gandhi National Rural Employment Guarantee, East Champaran
3. The Senior Deputy Collector-cum-Enquiry Officer, District Legal Cell, Motihari, East Champaran
4. The Executive Engineer, Triveni Nahar Division, Raxaul
5. The Circle Officer, Block and Anchal-Adapur, District-East Champaran
6. The Junior Engineer of the Panchayat Raj- Auraiya, Block and Anchal - Adapur, District - East Champaran
7. The Programme Officer, Anchal-Adapur, District - East Champaran
8. The Panchayat Technical Assistant of Panchayat Raj-Auraiya, Block and Anchal - Adapur, District - East Champaran
9. The Rozgar Sewak of Panchayat Raj-Auraiya, Block and Anchal - Adapur, District - East Champaran

10. Smt. Sehra Khatoon W/o- Md. Aslam, resident of Village + P.O. -
Auraiya, P.S. - Harpur, District - East Champaran

.... Respondent/s

Appearance:

(In CWJC No.18527 of 2013)

For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate
For the Respondent/s : Ms. Kumari Amrita, G.P.-10
Mr. Rajesh Kumar, AC to GP-10

(In CWJC No.18554 of 2013)

For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate

For the Respondent/s : Mr. Dhurjati Kr Prasad, GP-7
Mr. Md. Faiz Ahmad, AC to GP-7

(In CWJC No.22202 of 2013)

For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate

For the Respondent/s : Mr. Dinbandhu Singh, GP-9
Mr. Santosh Kumar, AC to GP-9

(In CWJC No.20017 of 2013)

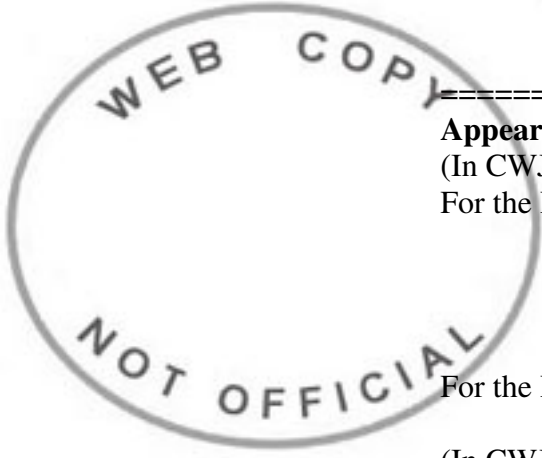
For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate

For the Respondent/s : Dr. Anshuman, SC-14
Mr. Kuber Pathak, AC to SC-14

(In CWJC No.20531 of 2013)

For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate

For the Respondent/s : Mr. Anshuman Singh, G.P.-24
Mr. Siddharth Shankar Pandey, AC to GP-24



(In CWJC No.18557 of 2013)

For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate

For the Respondent/s : Mr. Kaushal Kumar Jha, AAG-14
(In CWJC No.18617 of 2013)

For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate

For the Respondent/s : Mr. Rajiv Roy, GP-5
Mr. Suresh Kumar, AC to G.P.-5

(In CWJC No.18792 of 2013)

For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate

For the Respondent/s : Mr. Dev. Kr. Pandey, AC to G.P.-6
(In CWJC No.19596 of 2013)

For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate

For the Respondent/s : Mr. Madhuresh Prasad, GP-12
Mr. Shyameshwar Kr. Singh, AC to GP-12

(In CWJC No.19893 of 2013)

For the Petitioner/s : Mr. Shri Prakash Srivastava
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate

For the Respondent/s : Mr. Sanjeet Kr. Tiwari, AC to AAG-12
(In CWJC No.19912 of 2013)

For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate

For the Respondent/s : Mr. Rajesh Singh, GP-16
(In CWJC No.19950 of 2013)





For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate

For the Respondent/s : Mr. Purnendu Singh, G.P.-27
Ms. Sunita Kumari, AC to GP-27

(In CWJC No.19996 of 2013)

For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Mr. Rajeev Ranjan, Advocate
Mr. Amit Bhushan, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate

For the Respondent/s : Mr. Avnish Nandan Sinha, GP-11
Mr. Ashok Kr. Pathak, AC to GP-11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

6 21-09-2015 Heard Mr. Shri Prakash Shrivastava, learned counsel appearing on behalf of the petitioners in the batch of writ petitions and learned counsel for the State in each of the writ petitions.

The respective writ petitioners are aggrieved by a composite order passed by the District Magistrate as the District Programme Coordinator (MANREGA) whereby he has held them guilty of not discharging functions appropriately in the matter of implementation of the Schemes under MANREGA and thus causing financial loss to the State running into lakhs of rupees. The petitioners by the same order have been directed to deposit the loss ascertained and thereafter show cause as to why they be not proceeded departmentally / criminally.

All the orders have been issued by the District

Magistrate, East Champaran as the District Programme Coordinator, Mahatma Gandhi National Rural Employment Guarantee Act (MANREGA for the sake of brevity).

The individual details of the composite order is discussed hereinbelow for ready reference:

(1) CWJC No. 18527 of 2013

The petitioner has been served with a notice bearing Memo No. 1443 dated 05.8.2013 holding her guilty of causing financial loss to the tune of Rs. 14,13,991/- and requiring her to deposit the same within a week of receipt of the letter and thereafter also file show cause as to why she be not subjected to departmental and criminal action.

(2) CWJC No. 18554 of 2013

The petitioner in a similar manner has been served with a notice bearing Memo No. 1472 dated 05.8.2013 directing her to deposit Rs. 3,02,528/- within a week of receipt of the letter and thereafter also file show cause.

(3) CWJC No. 22202 of 2013

The petitioner has been served with a notice bearing Memo No. 1464 dated 05.8.2013 directing her to deposit Rs. 2,75,379/- within a week of receipt of the letter and thereafter also file show cause.

(4) CWJC No. 20017 of 2013

The petitioner in a similar manner has been served with a notice bearing Memo No. 1501 dated 06.8.2013 directing her to deposit Rs. 4,50,900/- within a week of receipt of the letter and thereafter also file show cause.

(5) CWJC No. 20531 of 2013

The petitioner in a similar manner has been served with a notice bearing Memo No. 1458 dated 05.8.2013 directing her to deposit Rs. 6,68,211/- within a week of receipt of the letter and thereafter also file show cause.

(6) CWJC No. 18557 of 2013

The petitioner in a similar manner has been served with a notice bearing Memo No. 1467 dated 05.8.2013 directing her to deposit Rs. 3,74,560/- within a week of receipt of the letter and thereafter also file show cause.

(7) CWJC No. 18617 of 2013

The petitioner in a similar manner has been served with a notice bearing Memo No. 1471 dated 05.8.2013 directing him to deposit Rs. 10,98,620/- within a week of receipt of the letter and thereafter also file show cause.

(8) CWJC No. 18792 of 2013

The petitioner in a similar manner has been served with



a notice bearing Memo No. 1473 dated 05.8.2013 directing her to deposit Rs. 4,68,186/- within a week of receipt of the letter and thereafter also file show cause.

(9) CWJC No. 19596 of 2013

The petitioner in a similar manner has been served with a notice bearing Memo No. 1489 dated 06.8.2013 directing her to deposit Rs. 4,83,000/- within a week of receipt of the letter and thereafter also file show cause.

(10) CWJC No. 19893 of 2013

The petitioner in a similar manner has been served with a notice bearing Memo No. 1470 dated 05.8.2013 directing him to deposit Rs. 11,30,878/- within a week of receipt of the letter and thereafter also file show cause.

(11) CWJC No. 19912 of 2013

The petitioner in a similar manner has been served with a notice bearing Memo No. 1490 dated 06.8.2013 directing her to deposit Rs. 3,81,400/- within a week of receipt of the letter and thereafter also file show cause.

(12) CWJC No. 19950 of 2013

The petitioner in a similar manner has been served with a notice bearing Memo No. 1466 dated 05.8.2013 directing her to deposit Rs. 6,76,460/- within a week of receipt of the letter and

thereafter also file show cause.

(13) CWJC No. 19996 of 2013

The petitioner in a similar manner has been served with a notice bearing Memo No. 1476 dated 05.8.2013 directing her to deposit Rs. 1,12,812/- within a week of receipt of the letter and thereafter also file show cause.

This matter was considered on 17.8.2013 when two issues were raised by Mr. Shri Prakash Shrivastava to question the impugned orders, namely:

- (a) That the allegations relate to the previous tenure ending in 2011, when these petitioners did not hold the post of Mukhiya;
- (b) No show cause notice or opportunity of hearing was granted to the petitioners before the impugned order was passed.

The Court directed the State counsel to meet the challenge and when supplementary counter affidavits have been filed on behalf of the State in some of the writ petitions and in which it has been demonstrated that even if the allegations relate to the previous period but the petitioner Mukhiyas are a party to the release of the funds. Individual details as regarding the payment made by the petitioners as the Mukhiyas have been mentioned in the respective supplementary counter affidavits.



Mr. Shri Prakash Shrivastava, learned counsel appearing on behalf of the petitioners in the batch of the writ petitions next proceeded to submit that the respondents have admitted that the Panchayat Rozgar Sewak was a part of the enquiry and that the documents enclosed with the supplementary counter affidavit including the enquiry report in fact casts a responsibility and accountability exclusively on the District Programme Officer and the Panchayat Rozgar Sewak and not the Mukhiya. He thus submits that in these circumstances and where the enquiry report itself does not implicate the Mukhiya rather holds the Programme Officer and the Panchayat Rozgar Sewak who had executed the work in question as responsible for the financial loss, if any, the notices so issued to the petitioners are unwarranted, illegal and thus not sustainable.

The argument of Mr. Shrivastava has been contested by counsel appearing on behalf of the State to submit that even if the report may mention as such but since it is a matter of record that it is under the signature of the petitioners as the Mukhiya that the amounts have been disbursed, then the petitioners as the head of the Panchayat cannot wriggle out of the responsibility and accountability.

I have heard learned counsel for the parties and I have



perused the records and in the nature of the order which this Court proposes to pass it would not require to delve into the rival contentions advanced by the parties. The notices questioned by the respective writ petitioners are impugned at Annexure-3 to each of the writ petitions. The respective notice specifically charges the respective writ petitioners of being casual in the implementation of the Schemes and not being vigilant in the matter. The petitioner Mukhiyas have been charged with failure to discharge their statutory responsibility, held guilty of dereliction of duty and have been saddled with the liability to deposit the respective amounts as already discussed hereinabove. It is after imposing the penalty of recovery that the District Magistrate has issued show cause to the petitioners to clarify the position meaning thereby a post facto show cause has been issued after holding the petitioners guilty and after imposing the penalty.

In the circumstances so discussed even if the contention of Mr. Shrivastava as noted in the order passed on 17.8.2015 insofar as Issue (a) is concerned that the allegations relate to the previous tenure, may not hold good inasmuch as the petitioners being a party to the disbursement of the amount do have to answer the charge, definitely the other issue raised by Mr. Shrivastava that the orders impugned have been issued in complete violation of the



principles of natural justice stands confirmed. Undisputedly the respective composite order of penalty cum show cause notice has been issued without opportunity to the petitioners to explain and clarify the position. The order is apparently not sustainable for the respective petitioners have not only been held guilty without opportunity to show cause but have also been held responsible for causing financial loss and have been directed to make good the loss. A completion of empty formality has thereafter taken place when in the same order the petitioners have been asked to clarify the position which has absolutely no sanction rather is a superfluous action.

For the reasons aforementioned, the respective order cum show cause notice passed by the District Magistrate, East Champaran as District Programme Officer impugned at Annexure-3 to the respective writ petitions cannot be upheld and are accordingly set aside. The matter is remitted to the District Magistrate for consideration of the matter afresh and its disposal in accordance with law and after opportunity of hearing to the petitioners. The writ petitioners would appear before the District Magistrate along with their respective show cause as well as the copy of the present order on or before **05.10.2015** and when the District Magistrate, East Champaran shall proceed to dispose of

the matter in the manner stipulated above after fixing a date of hearing and taking note of the ensuing elections in the District of East Champaran he would be at liberty to fix the date as per his convenience.

The writ petitions are allowed.

(Jyoti Saran, J)

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