

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14549 of 2006

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Harendra Kumar Pathak, son of Ramji Pathak, Ex Junior Engineer, Mahua Block, District- Vaishali, permanent resident of village- Murarpatti, P.O. Lalganj, P.S. Dokati, District- Balia

.... Petitioner

Versus

1. The State of Bihar through Secretary, Rural Development Department, Bihar, Patna
2. Deputy Secretary, Rural Development Department, Govt. of Bihar, Patna
3. The District Magistrate-cum- Deputy Development Commissioner-cum- Managing Director, District Rural Development Authority, Vaishali, District- Vaishali
4. The District Magistrate, Vaishali at Hajipur, District- Vaishali
5. The Executive Engineer, Rural Development Special Division, Vaishali at Hajipur, District- Vaishali
6. The Assistant Engineer, Rural Development Special Division, Vaishali at Hajipur, District- Vaishali
7. The Block Development Officer, Mahua Block, District- Vaishali

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Durga Nand Jha

For the Respondent/s : Mr. AAG-5

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

12 03-07-2015

Heard Sri Durga Nand Jha, learned counsel for the petitioner and Sri P.K.Verma, learned AAG-5.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for quashing of a letter dated 30.10.2006 issued by the Deputy Development Commissioner, whereby direction was issued to the Block Development Officer, Mahua to recover Rs. 3,90, 284/- from the concerned Contractor/Junior Engineer. It was further prayed to quash the letter dated 20.08.2005 communicated to the



Commissioner-cum- Secretary, Rural Development Department, Bihar by the District Magistrate-cum- Collector , Vaishali , whereby a request was made to proceed against the petitioner and others for irregularity committed in the Scheme. The petitioner had also prayed for quashing of charge memo dated 20.08.2005 contained in Proforma-K. Besides this, he has prayed for other consequential relief.

Of course, the writ petition itself was pre-mature, since while exercising jurisdiction under Article-226 of the constitution of India, it was not at all required to interfere into the dispute raised against the memo of charge. However, during pendency of the writ petition, it appears that services of the petitioner was allocated to the State of Jharkhand and on the basis of charge memo, proceeding was initiated.

In this case, subsequently, by filing an Interlocutory Application vide I.A. No.8898 of 2014, the petitioner made a prayer for certain amendment in the writ petition and in the Interlocutory Application, the petitioner has brought on record an order dated 02.09.2013 issued by the Water Resources Department, State of Jharkhand. The order contained in Annexure-10 indicates that the petitioner has been exonerated from all the charges. In the Interlocutory Application vide I.A. No.8898 of

2014, the petitioner made a prayer for amendment in the relief of the writ petition, which is as follows:

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- (i) Issuance of a writ in the nature of mandamus directing and commanding the Respondents to pay a sum of Rs.3,09, 656/- against the final bills submitted by the petitioner and as recommended by the B.D.O. Mahua with adequate amount of interest @ 18 % P.A. along with suitable amount of compensation, causing harassment and mental agony to petitioner.
 - (ii) Issuance of an appropriate declaration that once the petitioner has been acquitted in departmental enquiry on the ground that he had completed the works as mentioned in M.B., naturally he becomes entitled to the final bills submitted by petitioner on the basis of Measurement Book.
 - (iii) Any other relief or reliefs be granted to petitioner to which he is found to be entitled to in accordance with law.

This Court by order dated 30.03.2015 observed that Interlocutory Application shall be treated as part of the writ petition.

Sri Jha, learned counsel for the petitioner, by way of referring to statement made in paragraph-14 of the counter affidavit to the Interlocutory Application, submits that the Respondents have taken a stand that since the order of

exoneration i.e. Annexure-10 to the Interlocutory Application was not received by the Block Development Officer, Mahua, hence request of the petitioner was not considered. He submits that it is a fit case for directing the Respondents to refund Rupees Three Lakhs and Odd, as prayed in the Interlocutory Application.

Learned counsel for the petitioner submits that after exoneration, the petitioner had already approached the Block Development Officer regarding his claim. It is true that earlier this Court had observed that amendment petition shall be treated as part of the writ petition. Fact remains that the disputes, which are being raised by the petitioner after being exonerated in departmental proceeding, may not be adjudicated by this Court. It is not a case that any recovery had taken place.

In view of facts that the petitioner has already been exonerated, the writ petition stands disposed of.

(Rakesh Kumar, J)

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