

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15400 of 2013

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Ashok Kumar Singh

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tej Bahadur Singh, Sr. Advocate

For the Respondents : Mr. Vinay Kirti Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

2 29-07-2015

Heard learned counsel for the parties.

The petitioner is the Mukhiya of Nawada Panchayat of Jalalpur Block, District Saran at Chapra and is also holding the post of President of Zila Mukhiya Sangh for Saran District. He filed the instant writ application both in individual capacity and as representative of Mukhiya of Jalapur and Amnour. The petitioner seeks quashing of the order dated 8.7.2013 as contained in memo no.1798 and 1799 passed by the District Magistrate-cum-District Programme Officer, Saran at Chapra wherein the concerned Mukhiya and other persons connected with the social policy were directed to deposit apportion of the recoverable amount as quantified and calculated by the office of the District Programme Coordinator.

In the year 2011-12 and 2012-13 a programme under the “MNREGA Scheme” was launched for social forestry under the



supervision and monitoring of respective Panchayats in accordance with detailed guide lines dated 3.8.2011 of Rural Development Department, Government of Bihar. The guide lines which lay down minutely detailed as to how the scheme is to be implemented.

The case of the petitioner is that the work of social forestry was executed in accordance with the guidelines contained in Annexure-3. The petitioner disputes the report that in certain Panchayats of the Block the survival rate of plantation was 75%. He submits that the own report of the respondents would show that in some of the units of the Panchayat the survival rate is 85%. It is the case of the petitioner that in some areas the survival rate of plantation is about 90%. The plantation and its growth would depend upon number of factors some of which is beyond human control. He submits that the impugned order directing recovery of 30% of apportioned loss from Mukhiya of the two blocks is without any reasonable quantification. Further more, the impugned order has been passed without affording an opportunity of hearing.

Mr. Vinay Kirti Singh, learned counsel for the State submits that the petitioner could be accountable for himself and cannot represent all Mukhiyas in representative capacity. The respective Mukhiya should have raised their grievance individually as the

liability is individual.

There could be substance in the submission of learned State counsel. However, having regard to the facts and circumstances of the case as the impugned order dated 8.7.2013, as contained in memo no.1798 and 1799, has been passed without affording an opportunity of hearing, I set aside the same with liberty to the District Magistrate, Sitamarhi cum District Programme Officer, to process afresh against the persons liable for the poor plantation after providing them an opportunity of hearing. In case, if any show cause is issued, the concerned persons would immediately respond to the same, failing which the proceeding may continue exparte.

In the result this writ application is allowed.

(Samarendra Pratap Singh, J)

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