

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1142 of 2014

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Ram Jeevan Singh Son of Late Ram Lakhan Singh Resident Of Village- Itasagar,
P.S. Sikandra, District- Jamui

.... Petitioner/s

Versus

1. The State of Bihar through The Chief Secretary Bihar, Patna
2. The Secretary, Rural Development Department, Government of Bihar, Patna
3. The Collector-Cum-District Magistrate-Cum-District Programme Co-Ordinator,
Jamui, District Jamui
4. The Senior Deputy Collector, Jamui District Jamui
5. The Deputy Development Commissioner, Jamui, District Jamui
6. The Executive Engineer, Rural Works Department Work Division, Jamui,
District Jamui

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. AMAR PRAKASH
Mr. NAGENDRA SHARMA
For the Respondent/s : Mr. ALOK KUMAR, AC to SC-5

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 26-07-2016

Heard the counsel for the petitioner and the State.

A counter affidavit on behalf of the respondent nos. 3 to 6
is filed. There is no rejoinder thereto.

On going through the writ application, it appears the
petitioner is raising a public grievance i.e. mismanagement and
mishandling of the schemes/projects taken up under the “Mahatma
Gandhi National Rural Employment Guarantee Act” (for short
“MNREGA”). A Public Interest Litigation was filed earlier by the
petitioner vide C.W.J.C. No. 21257 of 2012. A Division Bench of
this Court vide proceeding dated 29.11.2012 (part of annexure-2
series), disposed of the writ application observing as under:

“ In view of the above, we are of the opinion that the petitioner can as well avail the remedy provided to him by this court in the manner as prescribed before the Committee, if he so desires.”

In the counter affidavit, it has been stated that an inquiry constituted by the respondent(s) was made into the grievance of the petitioner and misappropriation of Government fund was found. The concerned persons were called upon to deposit/refund the amount which remained unutilized and/or for which not satisfactory/reliable documents were produced. The concerned persons deposited the amount in a sum of Rs. 2,36,420/- with the Gram Panchayat Raj Itasagar. On the basis of aforesaid, it has been submitted in paragraph 12 of the counter affidavit that the amount lying in excess with the concerned agency/persons have been recovered.

The contention of the petitioner is that if the persons had committed something which is punishable under the Indian Penal Code, the respondents ought to have lodged an FIR forgeries were also found to have been committed by the agency/persons entrusted with the scheme to be implemented under MNREGA.

The State has objected to the maintainability of the writ application submitting that the writ petition in the form/shape presented is not maintainable. The petitioner had earlier filed a P.I.L which was disposed of 29.11.2012. In the light of the said order, the

inquiry was made and the amount/fund outstanding with the person(s) with whom it was entrusted has been recovered. Lodging of FIR is a discretion of the aggrieved party. If the petitioner is aggrieved, he may, if so advised, file a criminal complaint for the acts of commission and omission on the part of the agency/persons with whom the fund was entrusted.

As seen, the petitioner is raising a public grievance with regard to the malfunctioning of the schemes under the MNREGA. In view of the aforesaid facts, the Court is not inclined to issue direction for lodging of the First Information Report. The petitioner had filed a P.I.L. earlier which was disposed of permitting the petitioner to ventilate his grievance before the Committee. On such a grievance raised by the petitioner, the inquiry committee constituted by the respondent State acting in its own discretion directed the persons/agencies to refund the amount which has already recovered.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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