

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10877 of 2015

- =====
1. Bimlesh Kumar Paswan S/o. Late Sita Ram Paswan Village- Derhgaoan, P.S. Dawath, District- Rohtas the then Panchayat Rojgar Sevak, Sonapur
 2. Jitendra Kumar Singh, Junior Engineer, Sonapur S/o Ram Karan Singh, Village- Satpura, P.S.- Arwal, District- Arwal.
 3. Rajawanti Devi Wife of Om Prakesh Patel Mukhiya, Gram Panchayat Raj Kashmar, P.S. Sonapur, District- Saran at Chapra.
 4. Dinanath Dutta, the then Assistant Engineer Zila Parishad Saran. S/o. Late Shiv Bachan Ram, R/o. at Ratanpura, New Bank Colony Bhagwan Bazar Chapra.
 5. Sanjeev Kumar Singh, the then Programme Officer, Sonapur S/o. Late Jagnarayan Singh R/o. at Bank Colony Mirchaiya Tola Near Maharani Asthan, Distict- Saran at Chapra

.... Petitioner/s

Versus

1. The State of Bihar through its Secretary
2. The Secretary, Rural Development Department Patna, Bihar
3. The Commissioner, Saran Division, Chapra,
4. The District Magistrate, Saran at Chapra.
5. The Deputy Development Commissioner, Saran at Chapra
6. Gurcharan Singh son of Late Fakirchand Singh resident of village-Kasmar, P.O. Kasmar, P.S. Sonapur, District-Saran

.... Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. Kaushal Kishor, Advocate

For the Respondent/s : Mr. RAJU GIRI, GP-30

For the Respondent no. 6: Mr. Shashi Kant Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 22-02-2016

Reg: I.A. No. 1357 of 2016

This application has been filed by the legal heirs of the respondent no. 6 Gurucharan Singh who has deceased on 22.1.2016 during the pendency of the writ proceedings. The son of the respondent no. 6 seeks permission to get impleaded in the present proceedings on such substitution of the deceased respondent no. 6 as he is interested to pursue the issue raised by his father. The son of

deceased respondent no. 6 further submits that he shall be adopting the pleadings so filed by his father. A Vakalatnama on his behalf is on record.

In the circumstances, let the name of the respondent no. 6 Gurucharan Singh be expunged from the proceedings and be replaced by his son Mohan Singh.

I.A. No. 1357 of 2016 is allowed. Office to carry out the formalities.

Heard Mr. Shrawan Kumar, learned senior counsel appearing on behalf of the petitioners, counsel for the State and Mr. Shashi Kant Kumar, learned counsel for the complainant.

The petitioners are aggrieved by the order bearing Memo No. 1116 dated 07.5.2015 whereby they have been directed to recompense the amount spent towards laying down of the earthen road made in between the house of one Krishna Kumar and the river. The amount spent on the work carried out has been distributed amongst the petitioners in different proportions and the reasons are missing. The issue is rather precise but has been given a magnified version.

The deceased respondent no. 6 at one time held the post of Mukhiya, Gram Panchayat Raj Kashmar and was replaced initially by the husband of the petitioner and presently by the petitioner no. 3. The respondent no. 6 (deceased) came complaining before this Court



of irregularities on the part of the petitioners in the implementation of the scheme under the Mahatma Gandhi National Rural Employment Guarantee Act (hereinafter referred to as the 'MANREGA') insofar as it related to the Kashmar Panchayat within the district of Saran. A Division Bench of this Court vide order passed on 15.5.2014 on the Public Interest Litigation arising from CWJC No. 9077 of 2014 disposed of the same in the light of an earlier order passed in a batch of writ petitions arising from CWJC No. 1102 of 2014, copies of which are placed at Annexure-A and B to the counter affidavit of the State. The Division Bench summing the directions gave liberty to the aggrieved to file their representation before the Development Commissioner stated to be the Chairman of the State Level Managing Committee as regarding the irregularities complained of and who was given the responsibility to enquire into the matter. It is following such liberty that the deceased respondent no. 6 went before the Development Commissioner who constituted a Committee whose report is placed at Annexure-C to the counter affidavit of the respondent no. 4 and 5 and insofar as the petitioners are concerned, the report is present at running page-154 relatable to Scheme No. 4 of 2013-14.

In my opinion, a simple reading of the report by itself was sufficient to drop the proceedings for it merely casts on suspicion as to the work completed by the petitioners in laying down the earthen



road. Even when the report takes notice of the statement of the local villagers who confirmed the completion of work yet on a presumptuous conclusion which reflected doubts within itself that the allegation was upheld. The report itself rests on suspicion and does not drive home the charges. It is proceeding on such vague foundation that a show cause was issued to the petitioners, a copy of which is placed at Annexure-5 on 16.5.2014 and which was responded to by the Mukhiya vide Annexure-6 who with support of the documents clarified the position regarding the work undertaken. It was explained that it is due to continuous plying of heavy vehicles on the earthen road which has left it in a bad condition.

I have heard the parties and perused the records. It is not in dispute that under the Scheme it is only earthen work which had to be carried out on the road and it is not a metalled road. A specific stand was taken by the petitioners that by passage of time and usage of the road by heavy vehicles that the condition has deteriorated but that they had carried out the work. It is in consideration of the submissions so advanced by the Mukhiya that final orders have been passed and the Deputy Development Commissioner vide order bearing Memo No. 432 dated 16.3.2015 placed at Annexure-D to the counter affidavit of the respondent no. 4 and 5 has disbelieved the same but does not assign reasons there for. The order dated 16.3.2015 placed at Annexure-D is followed by the notice dated 07.5.2015 impugned at

Annexure-7. In fact by simply upholding the report and even while taking note of the stand of the petitioners as well as the statement of the local villagers, the Deputy Development Commissioner proceeds to direct for recovery of the amount spent on the laying down of the village road on which earthen work had been carried out. Again no reason is assigned by the Deputy Development Commissioner for the proportion fixed for recovery.

Having heard learned counsel for the parties and considering that there is nothing on record which would either demonstrate that the payment made to the labourers which stands enclosed in the documents furnished by the petitioners, is fake or that the money so spent was misappropriated by these petitioners amongst themselves, a unilateral opinion which is accompanied with suspicion, cannot visit the petitioners with a penal liability. The order is perverse, without reasons and is without foundation and thus cannot be upheld.

In result, the order bearing Memo No. 432 dated 16.3.2015 at Annexure-D and the notice bearing Memo No. 1116 dated 07.5.2015 at Annexure-7 passed by the Deputy Development Commissioner, Saran, Chapra are set aside.

The writ petition is allowed.

S.Sb/-

(Jyoti Saran, J)

U			
---	--	--	--