

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21101 of 2014

=====

Manju Devi, Wife of Lalo Yadav Resident of Village - Hatwan, P.S-
Alauli, Distt- Khagaria. Ex - Mukhiya P.S- Alauli , Distt- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Government of Bihar,
Main Secretariat, Patna.
2. The Principal Secretary, Finance Department, Government of Bihar,
Patna having his Office at Main Secretariat, Patna.
3. The Director, Government of Bihar , Panchayati Raj Department, Patna.
4. The District Magistrate-cum-Collector, Khagaria.
5. The District Panchayat Officer, Khagaria
6. The Sub Divisional Officer, Kahagaria.
7. The Block Development Officer, Alauli, Distt- Khagaria.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh

For the Respondent/s : Mr. Ravish Chandra, A.C. to S.C.-16

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 18-02-2016

Heard the parties.

In the nature of the order which this Court proposes
to pass, it would not be necessary to delve deep into the matter.

Suffice it to say that the petitioner is aggrieved by
the notice bearing Memo No.-955 dated 28.5.2012 of the
Block Development Officer, Alauli whereby she along with
the Panchayat Secretary has been directed to deposit the entire
sum released under the 13th Finance Commission in respect of
the financial year 2010-11 and 2011-12 *inter alia* on grounds



that they have utilized the money in violation of the guidelines issued under the scheme which amounts to financial irregularity. The ground for questioning the notice is that it is in violation of the principles of natural justice for no opportunity was given by the Block Development Officer, Alauli before holding the petitioner guilty of financial irregularity.

A counter affidavit has been filed and Mr. Ravish Chandra, A.C. to S.C. 16 with reference to Annexure-A thereof submits that an advisory was issued by the District Magistrate, Khagaria to all the Block Development Officer expressing opinion in the manner of utilization of the funds released under the 13th Finance Commission during the financial year 2010-11 and 2011-12. Mr. Chandra with reference to the enclosure to the said letter submits that in so far as the present petitioner is concerned, the name appears as serial no. 7 of the list of the Alauli Block and she has been charged of utilizing the money for installation of a hand pump when the money so released under the 13th Finance Commission could only be utilized in construction of Anganbari Sevika Kendra.

Even though the advisory is on record at Annexure-



A to the counter affidavit requiring the Block Development Officer concerned to take appropriate steps in the light of the directives but the counter affidavit is silent whether any opportunity was granted by the Block Development Officer to the petitioner to clarify the charges.

A rejoinder has been filed and in which it is specifically stated in Paragraph-4 that no opportunity was given to the petitioner by the Block Development Officer before the impugned order.

In the circumstances discussed and where even the impugned notice of the Block Development Officer simply relies upon the advisory of the District Magistrate placed at Annexure-A to the counter affidavit for passing the impugned order without discussing and without holding the petitioner guilty of diversion or misappropriation, in my opinion it clearly violates the principles of natural justice inasmuch as the right to defend is wrested from the petitioner. On this short note and apparent violation of the principles of natural justice, the notice of the Block Development Officer, Alauli bearing Memo No. 955 dated 28.5.2012 cannot be upheld and is accordingly set aside.

The writ petition is allowed.

This order however would not preclude the Block Development Officer, Alauli to proceed afresh in accordance with law but only after an opportunity of hearing to the petitioner to explain the charges.

(Jyoti Saran, J)

deepika/-

U			
---	--	--	--