

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22775 of 2013

- =====
1. Smt. Malti Devi, W/O- Ramjatan Paswan.
 2. Smt. Sabnam Devi, W/O - Shyam Paswan.
- Both are residents of Village - Mehtarwan, P.S. - Tharthari, District- Nalanda.
- Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Nalanda.
 2. The District Magistrate, Nalanda.
 3. The Deputy Development Commissioner, Nalanda.
 4. The Gramin Development Agency, Nalanda.
 5. The Block Development Officer, Nalanda.
 6. Panchayat Secretary, Kachahariya, Block- Tharthari, District - Nalanda.
- Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Sudhish Kumar
For the Respondent/s : Mr. Rishiraj Sinha, GP-19

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 20-04-2016

Heard learned counsel for the petitioners and learned
counsel for the State.

The petitioners are aggrieved by the order bearing
Memo no.433 dated 11.9.2013 of the Block Development Officer,
Tharthari, District- Nalanda, whereby the two petitioners have
been charged with misrepresentation with the authorities for
obtaining relief under the Indira Awas Scheme.

Learned counsel, appearing for the petitioners has
questioned the order on limited grounds, namely:

- (a) That the enquiry was not conducted in presence of the
petitioners;
- (b) The copy of the enquiry-report was never handed over
to the petitioners; and
- (c) The order has been passed ex-parte and without giving
any opportunity of hearing to the petitioners.

Although a counter affidavit has been filed supporting the impugned order but in my opinion the issues raised stands confirmed by the impugned order itself which entirely rests on the enquiry report. Whether or not the petitioners have followed the terms of the scheme they were definitely entitled to place their defence in a duly constituted proceeding before the Block Development Officer proceeded to pass the impugned order which accompanies institution of a criminal case.

On the limited count discussed above, the order impugned bearing Memo No.1132 dated 11.9.2013 of the Block Development Officer, Tharthari, District- Nalanda cannot be upheld and is accordingly set aside.

This order will not preclude the Block Development Officer to move afresh against the petitioners but in accordance with law and only after service of copy of enquiry report on the petitioners and after giving them an opportunity of hearing to place their case.

The writ petition is allowed.

(Jyoti Saran, J)

SKPathak/-

NAFR	
CAV DATE	
Uploading Date	21-04-2016
Transmission Date	