

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5037 of 2014

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Shashi Bhushan Singh Son of Sri Ragho Prasad Singh, Resident of Collector Singh
Keshari Nagar, Patna - 24

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Animal and Fish Resources
Department, Bihar, Patna
2. The Director Fishery Bihar, Patna
3. The Joint Director Fishery
4. The Special Secretary
5. The Executive Engineer (Head Quarter) Directorate, Fishery Bihar, Patna
6. The Assistant Engineer, Dy Director Fishery Tirhut Range Muzaffarpur
7. The District Fishery Officer, East Champaran, Motihari
8. The District Certificate Officer, East Champaran, Motihari
9. The Certificate Officer, Motihari
10. The Officer Incharge of Motihari Town Police Station, East Champaran,
Motihari
11. Rajdeo Sahni, Secretary Jhakha Surajpur Panchayat Fishermen Co-Operative
Society Ltd. (Maa Jalkar) Paraulia
12. Binay Kumar Chaudhary Anil Kumar Chaudhary Chief Executive Officer
Motihari Block Fisherman Self Supporting Co-Operative Society Ltd. (Maa-
Motijheel @ Karariya)
13. Anjira Devi W/O Rabindra Sahni, Chief Executive Officer, Pipara Kothi Block
Fishermen Co-Operative Society Ltd. (Maun - Manjharia, Matwali)
14. Krishna Sahni Chairman Jaisinghpur East Panchayat Fishermen Co-Operative
Society Ltd. (Maun Chilraw)
15. Motilal Sahni, Secretary Bairiya, Kabalpur Panchayat, Fishermen Co-Operative
Society Ltd. (Maun - Turkaulia)
16. Sharda Chaudhary Chairman, Manjhariya Sapahi, Panchayat Fishermen Co-
Operative Society Ltd. (Maun - Sapahi)

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjay Kumar
Mr. Sunil Prasad, Advocates
For the Respondents: Mr. Anshuman Singh, GP 24
Mr. Rajeev Shekhar, AC to GP 24

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 01-02-2016

The present writ petition has been filed for quashing the
order vide letter no. 243 dated 07.02.2014 issued by the Director,
Fishery, Bihar with a direction, inter alia, for institution of the

certificate case for recovery of the certificate amount against the petitioner.

2. Learned counsel for the petitioner makes a short submission in support of his contention that the impugned order of the Director, Fishery dated 07.02.2014 is unsustainable. He refers to the order dated 28.07.2010 of the Principal Secretary, Animal & Fishery Resource Department, (Annexure '4') which elaborately dealt with the subject matter concerning the present case. After due consideration, the Principal Secretary merely held the petitioner guilty of misconduct and accordingly, imposed punishment of censure, stoppage of three increments with non-cumulative effect and also directed to make an entry in his character roll. However, as regards recovery of the amount of loan under the Payn Culture Scheme, the Director, Fishery was required to ensure issuance of notice through the District Fishery Officer and take firm steps for such recovery from the Fishermen Cooperative Societies, in the backdrop of the fact that they were ready and willing to make the payment. The petitioner was only required to make payment of interest in respect of the Government funds lying in his passbook pending utilization.

3. Learned counsel for the petitioner states that an exorbitant amount of Rs. 18,06,921/- was now being sought to be recovered from the petitioner through certificate proceedings without



however complying with the directions of the Principal Secretary requiring firm steps to be taken by issuance of notice by the District Fishery Officer. It is submitted that without making efforts for recovery from the Fishermen Cooperative Societies which had already expressed their willingness to make payment, the petitioner, being a junior officer of only three years experience at the relevant time, was being made a scape-goat. It is further stated that as directed, the interest generated in the passbook amounting to Rs. 45,576/- has already been paid by the petitioner in the Government Treasury in terms of the challan dated 21.10.2010 (Annexure-6).

4. Learned counsel for the respondents-authorities on the other hand submits that no fault can be found with the action taken by the Director, Fishery and the impugned order dated 07.02.2014 has rightly been passed for realization and recovery of the amount in question through certificate proceedings against the petitioner. Moreover, steps had duly been taken for recovery of the money from the Fishermen Cooperative Societies in terms of letter contained in Memo No. 1700 dated 17.09.2010. It is further submitted that the interest amount has not been verified, and in any event, such amount has been paid by the petitioner only after the Director's instruction and not voluntarily.

5. Having heard the parties and on careful consideration



of the materials available on record, this Court finds merit in the submission of the petitioner. The order of the Principal Secretary dated 28.07.2010 (Annexure-4) contains a detailed deliberation of the concerning facts and circumstances after which certain directions were given to the parties. The Director, Fishery was specifically required to take firm steps for recovery of the loan amount from the Fisherman Cooperative Societies and only thereafter further action against the petitioner could be taken, subject to a fresh proposal in that regard being placed before the Principal Secretary.

6. In the present case, it would appear that the Director, Fishery has done no more than write the aforesaid solitary letter dated 17.09.2010 addressed to the District Fishery Officer for making recovery. Apart from this formality, nothing has been brought on record to show what happened thereafter and whether the Director, Fishery made any effort at all to follow up the matter and whether in fact letters were written by the District Fishery Officer for recovery from the said Societies. After a lapse of three and half years, the Director appears to have issued the impugned order dated 07.02.2014, inter alia, requiring recovery of the amount in question from the petitioner through certificate proceedings.

7. This Court, therefore, is not satisfied that the respondents-authorities have complied with the order of the Principal

Secretary dated 28.07.2010 in letter and spirit before directing coercive action to be taken against the petitioner for recovery of the subject amount through certificate proceedings. This Court is of the view that the petitioner could not be proceeded against for recovery without serious efforts first having been made for recovery from the Fisherman Cooperative Societies in terms of the order of the Principal Secretary and for which such Societies appear to have shown willingness to make the payment in question.

8. In the above view of the matter, therefore, the impugned order as contained in letter no. 243 dated 07.02.2014 (Annexure-8) is set aside insofar as it directs the initiation of certificate proceedings against the petitioner for recovery of Rs. 18,06,921/- through certificate proceedings. The Director, Fishery shall be at liberty to take appropriate steps for recovery of the amount in question first from the Fisherman Cooperative Societies. The result of such efforts shall be reported to the Principal Secretary before taking any action against the petitioner through certificate proceedings.

10. The writ petition accordingly stands disposed of.

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(Vikash Jain, J)