

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20937 of 2013

Rita Devi (Mukhiya, Gram Panchayat-Singhpur (East) W/O Mr. Arvind Kumar R/O Village Madhurapur, Panchayat - Singhpur East, P.O. Madhurapur, P.S. Thana Bihpur, District Bhagalpur.

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. Of Bihar, Patna.
2. Principal Secretary, Deptt. Of Rural Development, Govt. Of Bihar, Patna.
3. The Divisional Commissioner Bhagalpur.
4. The District Magistrate Bhagalpur.
5. The Deputy Development Commissioner, Bhagalpur.
6. The District Programme Officer, Bhagalpur.
7. The Lokpal (Mgnrega), Bhagalpur.
8. The Block Development Officer, Narayanpur, District Bhagalpur.
9. Programme Officer (Mgnrega), Narayanpur, District Bhagalpur.
10. Panchayat Rojgar Sevak, Panchayat - Singhpur, Narayanpur, District Bhagalpur.
11. District Panchayat Raj Officer, Bhagalpur.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. PURUSHOTTAM KUMAR JHA
Mr. Avanindra Kumar Jha
For the Respondent/s : Mr. MANOJ PRIAYDARSHI

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 19-07-2016

Heard the counsel for the petitioner as well as the State.

During the relevant time when the construction of drain (Naala) under the MGNREGA Scheme was undertaken by the Gram Panchayat, the petitioner was the Mukhiya of Gram Panchayat Singhpur in the district of Bhagalpur. A sum of Rs. 3, 73,419/- was disbursed by the authorities for construction of the drain (Naala) under the Scheme No. 10/2012-13. An enquiry was made whereafter it was found that a sum of Rs. 2,00,000/- was embezzled/misappropriated by the authorities who were required to execute the work including the petitioner, Rojgar Sevak, Assistant Engineer and the



Programme Officer. The Deputy Development Commissioner, vide Annexure-10, directed all the four authorities involved in the execution of the work to deposit the said loss of government money in equal proportion, failing which certificate proceedings and FIRs were directed to be initiated/filed. The petitioner, instead of depositing the amount, filed the writ application challenging the correctness of the enquiry report. In the meanwhile, the other authorities deposited the amount. The Deputy Development Commissioner vide another communication dated 15.03.2014 directed to take punitive action against the petitioner.

When queried, the counsel for the petitioner is unable to state as to whether the respondents have, in the meanwhile, lodged any FIR or the certificate proceeding.

In the counter affidavit, it has been stated that before issuing the communications dated 24.08.2013 (Annexure-10) and 09.09.2013 (Annexure-11) an enquiry was made in which all the stakeholders were given opportunity. The Naala constructed under the Scheme was found wholly substandard. In such circumstances, the persons involved in the construction of Naala were afforded opportunity to replenish the loss failing which punitive action was directed to be taken.

The counsel for the petitioner, however, states that an application/representation filed by her is pending consideration before the respondent Deputy Development Commissioner.

Upon making an enquiry in which an opportunity seems to have been given to the persons concerned to make good the loss sustained by the State Government, the impugned communications were issued. What the State respondent will do in case of non compliance of the instruction given in the

impugned communication would not be a matter to be examined in the case. The Court considering the pleadings made in the writ application and submission made on behalf of the parties, is not inclined to grant any anticipated relief to the petitioner. However, as a representation of the petitioner is stated to be pending before the respondent Deputy Development Commissioner, I am inclined to dispose of the writ application by directing the respondent Deputy Development Commissioner to consider the said representation, if available on record, and dispose of the same, in accordance with law, as quickly as possible, preferably within one month from the date of receipt/production of a copy of this order.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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