

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3260 OF 2016

Chandrakumar Divakarrao Talan

-VS-

The Block Development Officer, Panchayat Samiti, Tiwasa and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Vinay Dahat, counsel for the petitioner.
Mr. S.D.Chopde, counsel for the respondent Nos.1 to 4.

CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.

DATE : 19.07.2016.

By this writ petition, the petitioner challenges the order of the respondent-Block Development Officer, dated 03/06/2016 directing the petitioner to pay a sum of Rs.1,18,680/- that was paid to the Contractor, in excess of the work done by him.

According to the petitioner, who was the Up-Sarpanch of the Gram Panchayat and also the President of the Committee that was required to look after the Water Supply Scheme was served with a show cause notice, dated 13/01/2016 asking him to show cause as to why an amount of Rs.1,18,680/- should not be recovered from him towards the amount that was wrongfully paid to the Contractor of the Water Supply Scheme, in excess. The petitioner replied to the said show cause notice and was heard by the respondent No.3-Deputy Chief Executive Officer of the Zilla Parishad, Amravati. According to the petitioner, after the petitioner submitted the explanation on 03/02/2016, the Executive Engineer of the Water Supply Scheme of the Zilla Parishad asked the Sub-Divisional Engineer of the Water Supply Scheme by the communication, dated 01/03/2016 to again make an enquiry in the matter of the work done under the Water Supply Scheme and refix the liability, if any. According to the

petitioner, though the respondents were satisfied that a re-enquiry in the matter of the work of the Water Supply Scheme was necessary, the respondent-Block Development Officer of Panchayat Samiti, Tiwasa without making a fresh enquiry in the matter of the work completed under the Water Supply Scheme, by the impugned order, dated 03/06/2016, directed the petitioner to pay a sum of Rs.1,18,680/- that was paid to the Contractor, in excess. It is stated that since the respondents were satisfied that a re-enquiry in the matter of fixing the liability was necessary, the impugned order could not have been passed without re-enquiring into the work done under the Water Supply Scheme and the payments made thereunder.

Shri S.D.Chopde, the learned counsel for the respondents, states that the respondents had rightly directed the petitioner to repay the sum of Rs.1,18,680/-, as the said amount was wrongfully paid to the Contractor, in excess. It is, however, fairly admitted that after the petitioner submitted the reply/explanation on 03/02/2016, the Executive Engineer of the Water Supply Scheme had asked the Sub-Divisional Engineer of the said Scheme to make a fresh enquiry in the matter of implementation of the Water Supply Scheme so as to refix the liability. It is fairly admitted that after the said communication was issued, a fresh enquiry was not conducted.

On hearing the learned counsel for the parties, we find that the petitioner has made out a case for quashing and setting aside the impugned order. After the petitioner submitted the explanation, the concerned Authority appears to have been convinced that a re-enquiry in the matter of digging of pits and the laying of the water supply line was necessary before fixing the liability on the petitioner. However, it appears that despite the direction issued by the Executive Engineer of the Water Supply Scheme to the Sub-Divisional Engineer of the Scheme to make a fresh enquiry, a fresh enquiry/inspection was not made. Without a fresh enquiry, the liability could not have been fastened on the petitioner by the impugned order, more so, when the Executive Engineer was of the view that a fresh enquiry in the matter of the work done under the Water Supply Scheme was necessary.

Hence, the writ petition is partly allowed. The impugned order is quashed and set aside. The respondents are free to take appropriate action against the petitioner, in accordance with law. Order accordingly. No costs.

JUDGE

JUDGE

KHUNTE

C E R T I F I C A T E

I certify that this Order uploaded is a true and correct copy of original signed Order.

Uploaded by : G.S.Khunte,
P.A.to Hon'ble Judge

Uploaded on : 21/07/2016