

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12579 of 2016

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1. Krishna Ram Son of Late Ram Lagan Ram currently posted at Block Panchyat Raj Officer, Maraura (Chapra)- Saran permanent resident of Village- Bidesi Tola, P.O- Thave, P.S- Thave, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Siwan, District- Siwan.
2. The District Magistrate, Chapra, District- Saran (Chapra).
3. The Block Panchayat Raj Office, Marauwa (Siwan), District- Siwan.
4. The Block Panchayat Raj Officer, Maraura, District- Saran(Chapra).
5. The Assistant Engineer, Public Works Department, Marauwa (Siwan), District- Siwan.
6. The District Education Officer, Education Department, Establishment Department, Lakhisarai, District- Lakhisarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Adv.

For the Respondent/s : Mr. Kumar Alok-SC7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 28-03-2017

Heard Mr. Sumeet Kumar Singh learned counsel for the petitioner and Mr. Kumar Alok, S.C.7 for the State.

The grievance of the petitioner is that while issuing the last pay certificate at Annexure-6 the issuing authority has also mentioned certain dues allegedly outstanding against the petitioner by way of advance against the Schemes, the execution of which was his responsibility at his previous place of posting.

Annexure-6 though questioned, is incomplete and the remaining portion has been placed on record by the petitioner by way of Annexure-9 to the first supplementary affidavit.



The complaint of the petitioner is that it is following the details present in the last pay certificate bearing Memo No. 564 dated 7.4.2016 vide Annexure-9 to the first supplementary affidavit that the petitioner on his transfer from the post of Block Panchayat Raj Officer, Marauwa, Siwan to Block Panchayat Raj Officer, Maraura, Saran, is not drawing any salary by virtue of the outstanding shown in the last pay certificate which was issued more than two years of his transfer to Maraura in the district of Saran in the year 2014.

Mr. Sumit Kumar Singh learned counsel for the petitioner has questioned the last pay certificate to the extent it shows the outstanding of Rs. 45,97,700/- to submit that the same is without any opportunity of hearing to the petitioner to explain the position.

The respondents to some extent, do admit this position as reflecting from the counter affidavit filed and Mr. Kumar Alok learned State counsel in reference thereto has submitted that the petitioner as the Block Panchayat Raj Officer, Siwan was incharge of execution of certain schemes and the advances issued thereunder have been left unaccounted by the petitioner with no details on the expenditure.

Mr. Kumar Alok learned State counsel further in reference to Annexure-1 has submitted that the petitioner on his transfer to Maraura in the District of Saran was required to seek no objection



from the concerned department and although he has taken a no objection from the Nazarat but the no objection from other department is awaited. Even while supporting the impugned action as such, Mr. Kumar Alok does agree that while this matter is pending consideration before this court that notice has been issued to the petitioner vide Memo No.1202 dated 21.10.2016 asking him to explain the advances made to him as the Block Panchayat Raj Officer, Marauwa in the District of Siwan in respect of the schemes, a copy of the schemes under the BGRF/13th Finance Commission and the 14th Finance Commission.

Mr. Sumit Kumar Singh while acknowledging the notice submits that it is for the first time since after the filing of this writ petition on 3.8.2016 that the respondents have chosen to seek the details from the petitioner as to the advances and even before coming to a conclusion as to whether there remains any outstanding amount that they have mentioned the same in the last pay certificate issued in favour of the petitioner on his transfer to Saran, the copy of which is present at Annexure-6 to the writ petition and Annexure-9 to the first supplementary affidavit demonstrating an outstanding of Rs. 45,97,500/- and as a consequence the petitioner is going without salary since last 30 months even in absence of any adjudication whether or not the outstanding are sustainable.



Having heard learned counsel for the parties and considering the materials on record including the show cause issued by the Block Development Officer, Marauwa, Siwan to the petitioner in respect of the advances against the different schemes mentioned in the notice, a copy of which is placed at Annexure-A to the counter affidavit of the State, I would direct the petitioner to respond thereto and file his reply within a period of six weeks from today and whereafter let the Block Development Officer, Mairwa or the authority concerned take the matter to its conclusion but until such time that final order is passed on the proceeding so initiated, let there be a stay on the recovery of the alleged advance amount by the respondents on the basis of the outstanding shown in the last pay certificate of the petitioner bearing Memo No.564 dated 7.4.2016.

It goes without saying that in view of the order aforementioned there should not be any impediment in the way of the petitioner to receive payment of his salary.

The writ petition is allowed with the direction and liberty aforementioned.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.04.2017
Transmission Date	NA

