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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4657 of 2008**

- Netranand Patnaik, S/o Shri Vishwnath Patnaik, aged about 49 years, the then Secretary, Gram Panchayat Lailunga, Tahsil Lailunga, R/o at present Gram Panchayat Devgarh, Tahsil Tamnar, District Raigarh (CG)

---- Petitioner**Versus**

1. State Of Chhattisgarh, through Secretary, Panchayat & Social Welfare Department, DKS Bhavan, Raipur (CG)
2. Collector Raigarh, Distt.-Raigarh (CG)
3. Sub Divisional Officer (R) Cum Specified Officer, Gharghoda, Distt.-Raigarh (CG)

---- Respondent**And****WPS No. 6417 Of 2008**

1. Naresh Ram, S/o Shri Bhagat Ram, aged about 42 years, the Panchayat Karmi (Secretary), Gram Panchayat Chiraikhar, Block Lailunga, District Raigarh (CG)
2. Shashibhushan Bareth, S/o Shri Pahar Singh, aged about 40 years, Panchayat Karmi (Secretary), Gram Panchayat Dherobija, Block Lailunga, at present Malkharoda, District Janjgir Champa (CG)
3. Daya Ram Yadav, S/o Shri Bhola Ram, aged about 36 years, the Panchayat Karmi (Secretary), Gram Panchayat Aamapali, Block Lailunga, District Raigarh (CG)
4. Hilariyus Khes, S/o Shri Bachhel Khes, aged about 40 years, Secretary Gram Panchayat Jharan, Block Lailunga, District Raigarh (CG)
5. Pancham Toppo, S/o Shri S. Toppo, aged about 39 years, Secretary Gram Panchayat Ghatgaon, Block Lailunga, District Raigarh (CG)
6. Liladhar, S/o Shri Ramlal, aged about 40 years, Secretary Gram Panchayat Kamraga, Block Lailunga, District Raigarh (CG)

---- Petitioner

Vs

1. State Of Chhattisgarh, through Secretary, Panchayat & Social Welfare Department, DKS Bhavan, Raipur (CG)
2. Collector Raigarh Distt. Raigarh (CG)
3. Sub Divisional Officer (R) cum Specified Officer, Gharghoda, District Raigarh (CG)

---- Respondent

And

WPS No. 4684 Of 2008

- Suman Kumar Say, S/o late Shri Ramhit Say, aged about 40 years, Secretary, Gram Panchayat Sonajori, Block & Tahsil Lailunga, District Raigarh (CG)

---- Petitioner

Vs

1. State Of Chhattisgarh, through Secretary, Panchayat & Social Welfare Department, DKS Bhavan, Raipur (CG)
2. Collector, Raigarh, Dist. Raigarh, (C.G.)
3. Sub-Divisional Officer(R) Cum Specified Officer Gharghoda, Distt. Raigarh, (C.G.)

---- Respondent

And

WPS No. 5032 Of 2008

1. Ramdhan Bhagat, S/o Shri Tilak Ram Bhagat, aged about 36 years, the Panchayat Karmi (Secretary), Gram Panchayat Birsaha, Block Lailunga, District Raigarh (CG)
2. Mirtunjay Behra, S/o Shri Shashi Bhushan Behar, aged about 40 years, Panchayat Karmi (Secretary) Gram Panchayat Gahnajharia, Block Lailunga, District Raigarh (CG)
3. Nanki Ram Nag, S/o Shri Jagsay Nag, aged about 53 years, the

Panchayat Karmi (Secretary), Gram Panchayat Khedaama, Block Lailunga, District Raigarh (CG)

4. Horilal Mehar, S/o Shri Karam Mehar, aged about 39 years, Panchayat Karmi (Secretary) Gram Panchayat Bansdand, at present Gram Panchayat Kunjara, Block Lailunga, District Raigarh (CG)
5. Bishramlal Sahu, S/o Shri Bhavaniram Sahu, aged about 50 years, Panchayat Karmi (Secretary) Gram Panchayat Bansdand, Block Lailunga, District Raigarh (CG)

----- Petitioner

Vs

1. State Of Chhattisgarh, through Secretary, Panchayat & Social Welfare Department, DKS Bhavan, Raipur (CG)
2. Collector Raigarh, District Raigarh (CG)
3. Sub Divisional Officer (R) cum Specified Officer Gharghoda, District Raigarh (CG)

----- Respondent

And

WPS No. 5137 Of 2008

1. Sangal Say, S/o Shri Righan Say, aged about 37 years, the Panchayat Karmi (Secretary), Gram Panchayat Sihardhar, at present G.P. Chandarpur, Block Lailunga, District Raigarh (CG)
2. Santan Prasad Sahu, S/o Shri Gulas Ram Sahu, aged about 39 years, Panchayat Karmi (Secretary) Gram Panchayat Mohanpur, at present Laripani, Block Lailunga, District Raigarh (CG)
3. Sewa Ram Bhagat, S/o Shri Bhagat Ram, aged about 42 years, the Panchayat Karmi (Secretary), Gram Panchayat Khamhar, Block Lailunga, District Raigarh (CG)
4. Chitrasen, S/o Shri S. Siddar, aged about 39 years, Secretary, Gram Panchayat Jatra, Block Lailunga, District Raigarh (CG)

----- Petitioner

Vs

1. State Of Chhattisgarh, through Secretary, Panchayat & Social Welfare

Department, DKS Bhavan, Raipur (CG)

2. Collector, Raigarh, Distt. Raigarh, (C.G.)

3. Sub Divisional Officer (R) Cum Specified Officer Gharghoda, Distt. Raigarh (C.G.)

---- Respondent

For Petitioners : Shri M.K. Sinha, Advocate.

For Respondent/State : Shri Satish Gupta, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

20/04/2017

1. The petitioners are Panchayat Secretaries posted in different Panchayats within Lailunga Block in Raigarh District. They are aggrieved by the initiation of proceeding against them by the concerned SDO for recovery of the amount under Section 92 of the CG Panchayat Raj Adhiniyam, 1993 on the ground that they were party to the construction raised by the Gram Panchayat which was subsequently found to be inferior or substandard.
2. In similar writ petitions bearing WPC No.5955/2008 (Suknath Ram and others Vs. State of Chhattisgarh and others) and other connected matters preferred by few Ex-Sarpanch of different Gram Panchayat of Lailunga Block, this Court has passed the following order on 20.4.2012:-

“6. Having heard learned counsel for the parties, this Court is of the considered opinion that the nature of defense raised by the petitioners is in the realm of

disputed questions of fact which needs to be enquired by the concerned authority and this court in exercise of powers under Article 226 of the Constitution of India may not have jurisdiction to decide disputed questions of fact. Even otherwise, the impugned communication is only a show cause notice.

7. Though no interim order is operative in favour of petitioner yet learned counsel would submit that the amount has not been recovered from them.

8. In view of the above, this writ petition is disposed off with a direction to the petitioners to present a detailed reply before the SDO Revenue along with a copy of this order and the said authority shall consider the reply in accordance with provisions contained under Section 92 (4) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 and shall determine the amount recoverable against the petitioners after giving proper and adequate opportunity of hearing to the petitioners.”

3. Accordingly, the present Writ Petitions are also disposed of in the same terms.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve