

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No. 46 of 2014**

1. Udhoram Dhruw S/o Shri Banauram Dhruv Aged About 66 Years R/o Village Gdihwa Block And Tahsil Arang Distt. Raipur C.G.
2. Krishna Kumar Sahu S/oshri Sonuram Sahu Aged About 55 Years R/o Village Gadhwa Block And Tahsil Arang Distt. Raipur C.G.

---- Petitioners**Versus**

1. State Of Chhattisgarh, Through The Secretary, Department Of Panchayat , New Mantralaya, Mahanadi - Bhawan New Raipur Distt. Raipur C.G.
3. The Collector Raipur, Distt. Raipur C.G.
4. The Chief Executive Officer Zila Panchayat Raipur, Distt. Riapur C.G.
5. The Chief Executive Officer Janpad Panchayat, Arang Distt. Raipur C.G.
6. Executive Engineer Rural Engineering Services Rapur Division Zila Panchayat Raipur C.G.
7. The Sub Divisional Officer Arang, Distt. Raipur C.G.
8. Sunita Sahu Sarpanch Gram Panchayat, Gidhwa Tahsil Arang Distt. Raipur C.G.
9. Panchayat Secretary Gram Panchayat, Gidhwa Tahsil Arang Distt. Raipur C.G.

---- Respondents

For Petitioners	: Shri Salim Kazi, Advocate.
For Respondent/State	: Shri Y.S. Thakur, Additional Advocate General
For Respondent No.4	: Ms. Pushpa Dwivedi, Advocate
For Respondent No.7	: Avadhut Joshi, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge.

Order on Board**Per Thottathil B. Radhakrishnan, Chief Justice****12/07/2017**

1. We have heard the learned counsel for the Petitioner, the learned Additional Advocate General, the learned counsel for the 4th Respondent – Janpad

Panchayat and the learned counsel for the 7th Respondent – Sarpanch of the Gidhwa Gram Panchayat.

2. This writ petition is instituted in an attempt to point out that there is abuse or diversion of public funds much against the purpose for which the certain funds are to be utilized in the interest of the people at the village level. It is pointed out through the pleadings that mismanagement at the grass-root level is the net result of corruption coupled with nepotism, favoritism as well as arbitrary exercise and abuse of statutory powers and public authority.
3. Rather than we proceed to elaborate ourselves on the pleadings and other aspect which may be germane, we proceed to quote two orders which in their sequence would show the contents of the writ petition and the action taken by this Court.
4. When this writ petition came up for consideration on 31.8.2016, a detailed order was issued after noticing the requisite facts. The relevant portion of that order reads as follows:-

“In this petition, the main grievance of the Petitioners is that on 14.09.2010, an amount of Rs. 5 Lacs was sanctioned for construction of a boundary wall of Government Primary School at village Gidhwa, Tahsil Arang. According to the Petitioners, this work was completed and completion certificate was issued. Thereafter, on 05.03.2011, on the basis of same set of documents, another sum of Rs. 2 Lacs were sanctioned for construction of the said wall. It is further submitted that in the year 2013, another sum of Rs. 4.62 Lacs were sanctioned for construction of the same wall through a different agency under the Rajiv Gandhi Shiksha Mission under Sarva Shiksha Abhiyan Scheme. In para 8 of the petition, same allegations have been made.

The grievance of the Petitioners appears to be that for construction of the same wall, thrice money has been sanctioned through two-three different agencies.

Reply of the State is totally silent on this aspect and some reply has been given with regard to construction of some bridge/culvert and it does not deal with the allegations

made in the petition.

Two replies have been filed by the State/Respondents on the affidavit of Shri C.P.Manhar, Chief Executive Officer, Janpad Panchayat, Arang. The Respondent-Janpad Panchayat, Aarang has also given a similar reply.

We therefore direct that reply on behalf of the State shall be filed by Respondent No. 2-Collector, Raipur. He shall personally verify the allegations made in the petition and thereafter file his personal affidavit in this regard within a period of four weeks.

List on 19th October, 2016.

On the said date, Shri C.P.Manhar, Chief Executive Officer, Janpad Panchayat, Arang, District Raipur, shall remain present in person before this Court to explain why he did not give any clear cut reply to the public interest litigation petition.”

5. Thereafter, on 19.10.2016, after quoting the aforesaid order, this Court minuted as follows:-

“The Collector, Raipur has filed reply in which it is stated that initially a sum of Rs. 5 Lacs was sanctioned for construction of boundary wall on 14.09.2010. However, by utilizing this fund, only 153 meters of wall could be constructed as against the total length of 253 meters. Therefore, another amount of Rs. 2 Lacs was sanctioned and the entire wall was constructed. Surprisingly, the Collector states that on 22.02.2013 i.e. after the construction of wall had been completed, another amount of Rs. 4.62 Lacs was sanctioned for construction of the wall. It is further pointed out that this money was not used for construction of boundary wall but diverted for some other work.

What is shocking is that a proposal for construction of a boundary wall which had already been constructed was sent and not only was it sent but was also approved and Rs. 4.62 lacs was sanctioned for construction of the boundary wall. This shows that the person in charge of the Panchayat funds were not diligently performing their duties. In village panchayat, the members of Panchayat would know whether

the wall has been constructed or not. Even though there may not have been actual defalcation of funds but it was definitely an attempt to get the funds for construction of wall and this itself is a criminal offence. We are constrained to observe that the Collector has brushed aside the matter very lightly.

We therefore direct the Collector to hold an enquiry and fix the responsibility on the erring officials who submitted a proposal for sanction of funds for construction of boundary wall after the same had already been completed and he shall take strict departmental and criminal action against the officials and report the matter to this Court within a period of three months.

As far as Shri Manhar, CEO, Zila Panchayat, Sukma is concerned, he states that he was not holding the office of the CEO of the concerned Zila Panchayat on 22.03.2013. He has tendered his unqualified apology to us about not stating this fact in the reply filed earlier. We accept the apology but we direct the Collector to ensure that action is taken against the earlier CEO and all other concerned who attempted to defalcate the public funds.”

6. It appears that the intervention made by this Court through the aforequoted two orders woke up the concerned authorities from what would have otherwise been a perennial slumber on the issue. Thereafter, a compliance report dated 26.2.2017 was filed by the Collector, Raipur reporting obedience to the directions contained in the aforesaid orders. It is apposite to quote the following relevant portion from that report:-

“4. It is respectfully submitted that in compliance of the order dated 19/10/2016 passed by the Hon'ble Court, the Collector (Zila Panchayat), Raipur has taken the cognizance of the matter and directed the Executive Engineer, Rural Engineering Services, Raipur Division, Raipur to conduct inquiry in the matter. It is submitted that in compliance of the direction of the Collector (Zila Panchayat), Raipur, on 17/02/2017 the spot inspection regarding construction of boundary wall in Govt. Primary School, Gidhwa, Block Aarang has been made by the Executive

Engineer, Rural Engineering Services, Raipur Division, Raipur and during the inspection, it has been found that the funds to the tune of Rs.5/- lacs under Minor Mineral, to the tune of Rs. 2/- lacs under Pradhanmantri Gramoday Scheme and to the tune of Rs. 4.62 lacs under Rajiv Gandhi Shiksha Mission (Sarve Shiksha Abhiyan) were sanctioned in three stage on 17/09/2010, 05/03/2011 and 23/02/2013 and vide order dated 05/08/2013, the first stage sanction to the tune of Rs. 4.62 lacs has been cancelled.

5. It is submitted that during the inspection, it is further found that from the funds sanctioned at first, the boundary wall to the length of 153 meter was constructed. Thereafter, the remaining boundary wall to the extent of 80 meter was again constructed from the funds sanctioned at second stage and thus, total 233 meter length of boundary wall has been constructed. To demonstrate the above, copy of the inspection report dated 21/02/2017 submitted by the Executive Engineer, RES, Raipur Division, Raipur is being filed herewith as Annexure-R/1F.

6. It is most humbly and respectfully submitted that after receipt of the spot inspection report (Annexure R/1-F), the Collector Raipur has minutely examined the records and documents pertaining to the matter and has found that vide letter dated 02/02/2013 written by the then Sub Divisional Officer, RES, Raipur Division Shri L.P. Sharma, a proposal for sanction of Rs. 4.62 lacs was forwarded to the Rajiv Gandhi Shiksha Mission and the same has been sanctioned by the Office of the District Project Co-ordinator, Rajiv Gandhi Shiksha Mission (SSA), Raipur vide order dated 22/02/2013 and looking to the aforesaid fact, the then Sub Divisional Officer, RES, Raipur Division Shri L.P. Sharma has been held responsible for the alleged sanction of Rs. 4.62 lacs for the work which was already executed and accordingly, a proposal/recommendation for taking disciplinary action under the provisions contained in the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 against the then Sub Divisional Officer, RES, Raipur Division Shri L.P. Sharma has been made and forwarded to the Additional Chief Secretary, Department of Panchayat and Rural

Development, Raipur vide letter dated 22/02/2017. Copy of the letter dated 22/02/2017 is being filed herewith as Annexure R/1-G.

7. That, in view of the facts and circumstances of the case and submissions made hereinabove, the present compliance report may kindly be taken on record and such an order would be expedient, in the interest of justice.”

7. For the purpose of continuity, we take on record Annexure R/1-F and R/1-G placed alongwith aforequoted report and order that copies of those report will stand appended to this judgment for immediate reference.
8. In the light of the compliance report dated 26.2.2017, it is demonstrated that the Government has taken action on the facts and in the circumstances of the case. We are also of the view that the further action as stated by the Government and evidenced through the annexures have to be carried forward to their logical end by ensuring that the disciplinary proceedings stated to have been initiated are concluded in accordance with law and by ensuring that the construction activities which are stated to have been completed are appropriately accounted for. It is so directed.
9. On the basis of the compliance report and the facts and factors stated above, we are of the view that no further directions are called for, though this case ought to be an eye-opener for the Government to ensure prompt and effective control over the finances that flow through the governmental machineries in the name of government projects and are intended to reach down to the grass-root level for the benefit of the common man.
10. This writ petition is ordered accordingly.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sharad Kumar Gupta)
JUDGE