

HIGH COURT OF CHHATTISGARH AT BILASPURWPC No. 1496 of 2012

Lakhan Lal Tondre S/o Shri Bhawcharan Tondre, aged about 54 years,
R/o Jal Sansadhan Colony Bemetara, District Bemetara (C.G.).

---Petitioner

Versus

1. Lokpal, Mahatma Gandhi Rashtriya Gramin Rojgar Guarantee Yojana, District Durg (C.G.).
2. Shri Mohit Kumar Sahu S/o Shri Bhukhau Ram Sahu, R/o village Semariya, Block Bemetara, District Bemetara (C.G.).
3. Shri Santosh Kumar Sahu S/o not known, Sarpanch, Gram Panchayat Semariya, Block Bemetara, District Bemetara (C.G.).
4. Shri Tirath Ram Sahu S/o not known, Panchayat Secretary, Gram Panchayat Semariya, Block Bemetara, District Bemetara (C.G.).
5. State of Chhattisgarh, Through the Secretary, Department of Panchayat & Rural Development, Mantralaya, D.K.S.Bhawan, Raipur (C.G.).
6. The Chief Executive Officer, Jila Panchayat Durg, District Durg (C.G.).
7. The Chief Executive Officer, Janpad Panchayat Bemetara, District Bemetara (C.G.).
8. The Sub Divisional Officer, Water Resources Sub Division No.-II, Bemetara, District Bemetara (C.G.).

---Respondents

For petitioner	:	Shri Rishi Rahul Soni on behalf of Shri Samir Singh, Advocate.
For State	:	Shri Shashank Thakur, Government Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/07/2018

1. The challenge in the present Writ Petition is to the orders Annexures-P/1, P/2 & P/3.

2. Annexure-P/1 is an order passed by the Lokpal under the Mahatma Gandhi Rashtriya Gramin Rojgar Guarantee Yojana, District Durg dated 03/04/2012 wherein the Lokpal has found the petitioner guilty of having committed certain procedural lapses in the course of preparation of muster roll while marking attendance of the workers in the said scheme and on the basis of the said finding has imposed a penalty of Rs.1,000/-.
3. Based upon the said finding, the Zila Panchayat, Durg issued an order Annexure-P/2 dated 16/07/2012 for recovery of the said amount from the petitioner.
4. Pursuant to the order of Zila Panchayat, the Janpad Panchayat issued an order for recovery of the same vide Annexure P/3 dated 17/07/2012.
5. The solitary ground on which the three orders are under challenge is that, the petitioner at no point of time was issued with a notice for hearing before the impugned order Annexure-P/1 was passed. According to the counsel for the petitioner, even the complaint which was lodged before the Lokpal was not against the petitioner, but was against the Sarpanch of Gram Semariya namely Santosh Kumar Sahu and Secretary of Panchayat namely Tirath Ram Sahu.
6. He further submits that, though the Lokpal during the course of hearing reached to the conclusion that, there were certain procedural lapses or irregularities committed by the present petitioner, it ought to have issued atleast a notice to the petitioner before holding him guilty and penalizing him

vide the impugned order. Thus for the said reason, the impugned order has been assailed to be bad in law.

7. This aspect so far as non granting of opportunity of hearing to the petitioner is not in dispute by the counsel for the respondents.

8. Given the facts, prima-facie, this Court is of the opinion that, the impugned order has been passed in pure violation of basic principle of natural justice, in as much as the impugned order has been passed without affording any opportunity of hearing to the petitioner, nor was even an explanation sought for before imposition of the order of penalty from the petitioner.

9. Moreover, the petitioner was not even made a party in the proceedings before the Lokpal.

10. Given the aforesaid undisputed factual matrix of the case, this Court is of the opinion that, the impugned order so far as the order of penalty imposed upon the petitioner is unsustainable and the same is therefore deserve to be and is accordingly set-aside/quashed.

11. As a consequence, the subsequent order passed by the Zila Panchayat – Annexure-P/2 dated 16/07/2012 and the order passed by the Janpad Panchayat – Annexure-P/3 dated 17/07/2017 also are not sustainable and the same deserve to be and are accordingly set-aside/quashed.

12. Reserving the right of the respondents to proceed further in case if they feel so after granting an opportunity of hearing to the petitioner, the present Writ Petition in its present form stands allowed.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit