

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14256 of 2014

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Awadhesh Kumar Sahu Son of Shri Tek Narayan Sahu residen tof Bela Negh,
P.S. Ujiyarpur, District Samastipur.

... .. Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Vaishali.
3. The Block Development Officer, Jandaha, Vaishali.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. D.K.Sinha, Sr. Advocate Mr. Abhinay Raj Mr. Alexander Ashok
For the Respondent/s	:	Mr. Sanjay Kumar, AC to AAG 4

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 20-08-2019 During tenure of petitioner's posting at Jandaha as Block Agriculture Officer, an amount of Rs. 13 lakh has been shown as outstanding/recoverable in the last pay certificate (LPC) dated 2.12.2008. The same has been assailed by the petitioner in this proceeding in the year 2014 when he was on the verge of retirement.

It is submitted by learned Senior Counsel appearing for the petitioner that the amount has been shown outstanding/recoverable without any basis. There is no proceeding after giving any opportunity to the petitioner prior to fixing of the said outstanding/dues against the petitioner. Such a civil consequence without complying principles of natural



justice is unsustainable in the eyes of law.

State Counsel submits with reference to the stand in the counter affidavit that for disseminating benefits of Indira Awas Yojana an amount of Rs. 69 lakh was issued as advance to the petitioner. Utilisation in respect of Rs. 51 lakh was submitted. An amount of Rs. 18 lakh was thus outstanding against the petitioner. The issue is one of accounting and as such the petitioner cannot escape his liability to account for or return the balance 18 lakh rupees. It is further stand of the State that through the Nazir an amount of Rs. 4 lakh and Rs. 1 lakh was returned by the petitioner on 17.2.2014 and 27.2.2014. The liability therefore is admitted by the petitioner and he is obliged to account for, or return the balance 13 lakh rupees. Reliance is also placed on order dated 27.5.2013 issued by Enquiry Officer in the proceeding against the Block Nazir. The Enquiry Officer has submitted a report that the Block Nazir could not be held responsible for the amount of Rs. 18 lakh outstanding. It is the finding of the Enquiry Officer that the Block Nazir has merely acted as per dictates of the petitioner who was Block Agriculture Officer. Accordingly, it is submitted by the State Counsel that the petitioner is liable for the amount of Rs. 13 lakh.

On going through the pleadings and on consideration



of submission of the parties, this Court would observe that there is no basis to conclude the amount of Rs. 13 lakh to be outstanding against the petitioner. The Block Nazir was proceeded against for the said amount. He has taken a stand in the proceeding that the petitioner was responsible for the amount misappropriated/unaccounted. In the proceeding he has made deposits of two amounts of Rs. 4 lakh and Rs. 1 lakh by submitting that he was making it on behalf of the Block Agriculture Officer (petitioner). Relying upon such averments in the said proceeding against the Block Nazir, in which the petitioner was not a party, the respondents have concluded that the petitioner is liable for accounting/refund of the amount of balance 13 lakh rupees out of 18 lakh rupees. Such conclusion behind the petitioner's back and without giving him any opportunity is clearly unsustainable.

Having observed so, this Court would take notice of the fact that the amount outstanding shown in the petitioner's LPC dated 2.12.2008 has been assailed in the instant proceeding much later i.e. in the year 2014. At the time of filing of the writ petition the petitioner was aged 58 years and therefore must have retired by now. The petitioner approached this Court after delay of about seven years and petitioner cannot be permitted to



derive any undue benefit. Such delay therefore, in the opinion of this Court, would not stand in the way of respondent authorities in proceeding against the petitioner so as to ascertain petitioner's responsibility in respect of the amount outstanding. Such proceeding under Rule 43B of the Bihar Pension Rules, in the facts and circumstances of this case, should be initiated within a period of four weeks from the date of receipt/production of a copy of this order. The petitioner would be obliged to cooperate and ensure that the proceeding is taken to its logical conclusion as the amount involved are in respect of public welfare measures intended for deprived section of the society. Interest of justice thus demands that the respondents authorities would not be precluded, on account of delay having been caused by the petitioner in approaching this court.

Learned Counsel for the petitioner submits that the amount of Rs. 13 lakh shown outstanding in the LPC has not been recovered till date. In the facts and circumstances, this Court would direct that the respondent authorities should conclude the proceedings by issuing a show cause under Rule 43 B for the purpose of ascertaining petitioner's responsibility in respect of the said amount within four weeks. The petitioner should cooperate and final decision in this respect be taken by



the authorities within three months thereafter. Entitlement of the petitioner will abide by decision of the authorities in the proceeding.

The writ petition stands disposed of with the aforesaid observations.

(Madhuresh Prasad, J)

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