

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.617 of 2019

Arising Out of PS. Case No.-278 Year-2018 Thana- UDWANTNAGAR District- Bhojpur

Pintu Kumar aged about 40 years (male) Son of Lal Narayan Singh @ Jamuna Prasad, resident of Village - Saidabad Selgarh, P.s.- Bikram, Distt.- Patna. at Present Junior Engineer Local Area Engineering Organization (L.A.E.O.) Works Division No.1, Bhojpur. Ara.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary Home Deptt. Govt. Of Bihar
2. The Director General of Police, Bihar, Patna
3. The District Magistrate , Bhojpur, Ara.
4. The S.P. Bhojpur, Ara
5. The D.S.P. Bhojpur, Ara
6. The Officer Incharge, Bhojpur, Ara
7. The Deputy Development Commissioner, Bhojpur, Ara
8. The District Planning Office, Bhojpur, Ara
9. The Executive Engineer, Local Area Engineering Organization (L.A.E.O.) Works Division No.1 Bhojpur, Ara
10. The Assistant Engineer, Local Area Engineering Organization (L.A.E.O.) Works Division No.1 Bhojpur, Ara. Bihar

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Santosh Kumar, Advocate
For the Respondent/s : Mr.Partha Sarthy-GA-4

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 16-04-2019

Heard learned counsel for the petitioner and
learned counsel for the State.

2. This writ petition under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for setting aside the official order issued vide memo no. 1252 dated



16.08.2018, as contained in Annexure-6 to this petition, by the Deputy Development Commissioner, Bhojpur, Arrah whereby he has directed the District Planning Officer, Bhojpur, Arrah to lodge the first information report (for short 'FIR') against the petitioner within 24 hours in view of his involvement found in an inquiry conducted by the flying squad in execution of a work contract.

3. Learned counsel for the petitioner has submitted that the impugned order is bad in law as well as on facts, as no opportunity of hearing has been given to the petitioner in order to establish his innocence prior to the direction having been issued for institution of an FIR against him. He has contended that in the alleged contractual work, the entire payment has been made to the contractor concerned after being satisfied with the quality of work but, later on, a complaint was received regarding irregularity committed in the execution of the work contract. In the inquiry also, the petitioner was not afforded any opportunity to plead his innocence.

4. On the other hand, learned counsel for the State submitted that the writ petition is totally misconceived. The inquiry conducted by the flying squad revealed that a cognizable offence was committed by the contractor in



connivance with the officials including the petitioner. Having received the inquiry report of the flying squad, the Deputy Development Commissioner, Bhojpur, Arrah issued direction for institution of the FIR. A direction so issued can neither be held to be bad in law or on facts.

5. I have heard learned counsel for the parties and carefully perused the record.

6. In case of a cognizable offence, an opportunity of hearing is not to be given to the person alleged to be involved in commission of crime. Once a *prima facie* case has been found by flying squad, which was entrusted with the task of inquiry into the allegations, no illegality can be found with the order of the Deputy Development Commissioner whereby he has directed for institution of an FIR.

7. In that view of the matter, I see no merit in this writ petition . It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.04.2019
Transmission Date	18.04.2019

