

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14586 of 2011

Subodh Kumar Singh S/O Sri Bhrigunath Singh R/O Vill.- Ibrahimpur, P.S.-
Baniyapur, Distt.- Saran

... .. Petitioner

Versus

1. THE STATE OF BIHAR through District Magistrate, District Vaishali Bihar
2. The Special Secretary, Vigilance Department Govt. Of Bihar, Patna
3. The Deputy Development Commissioner, Distt.- Vishali, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Prabhat Ranjan
For the Respondent/s : Mr.Rishiraj Sinha Gp19

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 09-09-2019 The short issue raised by Mr. Ranjan, appearing for the petitioner, is that the authorities have issued communication dated 8.8.2011 asking the petitioner to deposit the amount of Rs. 15,416/- and Rs. 21,400/- being the amount of excess payment made in implementation of some Manrega scheme for which the petitioner being Panchayat Technical Assistant was responsible.

It is submitted that prior to the order fastening the liability on the petitioner, he was not given any opportunity in the matter and as such the order having civil consequences without being preceded by observing the principles of natural justice is not sustainable.

The submission as a proposition of law cannot be denied and are axiomatic.

Counter affidavit has been filed by the respondents. They say that report of the Technical Committee constituted under the



direction of the Vigilance Department was handed over to the petitioner on 15.9.2012 by Deputy Development Commissioner and as such after handing over copy of the report forming the basis of direction dated 8.8.2011, the petitioner has been rightly saddled with the liability.

Submission of the State Counsel are unacceptable. The admitted position from the counter affidavit is that enquiry report was served on 15.9.2012, much after the order dated 8.8.2011 requiring him to deposit the amount.

From the pleadings on record it is apparent that the order was not preceded by any opportunity and as such is unsustainable in the eyes of law. The order dated 8.8.2011 requiring the petitioner to deposit the amount issued by District Magistrate Vaishali are unsustainable in the eyes of law and are hereby quashed. This order shall however not be treated as an expression on correctness of the report dated 15.9.2012 placed on record by way of counter affidavit in the instant proceeding.

The writ petition is allowed.

(Madhuresh Prasad, J)

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