

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 2494 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 17109 of 2012

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Arun Kumar Upadhyay Son of Sri Dhanushdhari Upadhyaya, Resident of
Village- Baramuli, P.O. and P.S. Sonhan, District- Kaimur at Bhabhua.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Anjani Kumari Singh, the Chief Secretary, Government of Bihar, Patna.
3. Kuldeep Narain, Director, Panchayat Raj, Government of Bihar, Patna.
4. Ramashankar Singh, the Deputy Development Commissioner (hereinafter referred to the D.D.C.) Kaimur at Bhabhua.
5. Md. Jiyaullah, the District Panchayat Raj Officer, Kaimur at Bhabhua.
6. Kanhaiya Prasad, the District Welfare Officer, Kaimur at Bhabhua.
7. Bajrang Pratap Singh, the Block Panchayat Raj Officer, Bhabhua.
8. Manendra Kumar Singh, the Block Development Officer, Bhabhua, Kaimur at Bhabhua .
9. Seema Kumari, Mukhiya, Mahuari Gram Panchayat, Bhabhua Block, Kaimur at Bhabhua.
10. Ekadshi Rai, Panchayat Sachiv, Mahuari Gram Panchayat, Block Kaimur at Bhabhua.
11. The Vigilance Investigation Bureau, Cabinet Vigilance Department, Government of Bihar, Patna.
12. The Superintendent of Police, Kaimur at Bhabhua.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Chaudhary and Mr. Nagendra Kumar, Advocates
For the State	:	Mr. Anuj Kumar, AC to GP 24
For the Vigilance (Respondent No. 11)	:	Mr. Anjani Kumar, Sr. Advocate

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 25-06-2019



Heard learned counsel for the petitioner; learned AC to GP 24 for the State and Mr. Anjani Kumar, learned senior counsel for the Vigilance Investigation Bureau.

2. The petitioner has alleged violation of the order dated 14.09.2012 passed in CWJC No. 17109 of 2012. The operative portion of the order reads as under:

“In the circumstances, this writ application is disposed off with a direction to the concerned respondent, responsible for payment of the amount of bills of the petitioner, to examine his bills in the light of work done by him and ensure release of admissible amount of the bills to the petitioner positively within three months from the date of receipt/production of a copy of this order, if necessary, by arranging fund for the same, failing which, the said respondent shall be liable to pay an interest on the amount, at the rate of 12% compoundable yearly, from his own pocket. In case, the said respondent finds that the amount of bill or any part thereof is not payable to the petitioner, he shall communicate the same to the petitioner in specific terms, assigning reasons thereof, within that very period. In that event, petitioner shall be at liberty to seek his remedy in accordance with law before an appropriate forum and claim adjudication in respect of his entitlement of the said amount with interest”

3. Show cause has been filed on behalf of the opposite parties no. 5, 6 and 8, in which copy of the second enquiry report has been brought on record. In the earlier show cause filed, copy of order by which the claim of the petitioner for payment has been rejected, along with the first enquiry report dated 06.07.2017, has



been brought on record. However, it appears that another enquiry was held and the report dated 01.03.2019 is also on record, copy of which has been served on learned counsel for the petitioner.

4. In view of the fact that the Court had directed for considering the claim and to examine the bills and make payment, if found admissible and in case, it was found that if any amount was not paid, the same was required to be communicated to the petitioner in specific terms assigning reason thereof. From the materials on record, the Court finds that the authorities have found it to be inadmissible and two enquiry reports in support of such findings have been brought on record and also served on the learned counsel for the petitioner. Thus, to that extent, the order of the Court having been complied with, the application stands dismissed.

5. Earlier, the Court found that the matter relates to corruption in public office and, thus, entrusted it to the Vigilance Investigation Bureau. A report in terms of the order dated 02.04.2019 has been submitted to the Court in which there is recommendation for lodging of FIR against the then Mukhiya and Panchyat Sachiv. However, with regard to the higher officials, it has been stated that further investigation is required to form an opinion relating to their complicity.



6. Mr. Anjani Kumar, learned senior counsel and Law Officer Incharge, Vigilance submitted that only after full investigation against all officers is conducted, a consolidated FIR be instituted so that there is no technical lacuna in the proceeding. The Court is inclined to accept the suggestion of learned counsel for the Vigilance.

7. Accordingly, the Additional Director General, Vigilance Investigation Bureau shall ensure that enquiry which has already been initiated in terms of the previous orders of the Court is completed with regard to all officials who may be involved in the transaction. The same be done within one month. Based on such final enquiry report, the recommendations be forwarded to the Superintendent of Police, Kaimur for doing the needful. The Court deems it appropriate to implead the Superintendent of Police, Kaimur as opposite party no. 12. Learned counsel for the State accepts notice on his behalf. Further the description of the opposite party no. 2 be also corrected to read as Vigilance Investigation Bureau, Cabinet Vigilance Department, Government of Bihar, Patna. Let necessary correction be made in the cause title of the application by learned counsel for the State during the course of the day.



8. The application stands disposed off in the
aforementioned terms. Both the learned counsel for the Vigilance
as well as learned counsel for the State shall communicate the
order to the authorities concerned for compliance.

(Ahsanuddin Amanullah, J.)

Anand Kr.

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