

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14902 of 2019

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Santosh Kumar, aged about 44 years, male, Son of Yadunandan Prasad Sinha,
Resident of Village- Katauli, P.S. - Halsi, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Rural Development, Government of Bihar, Patna.
2. The Commissioner, Patna.
3. District Magistrate – cum - District Officer, Lokpal, Manrega, Patna.
4. Dy. Development Commissioner, Patna.
5. District Account Administration and Self Employment, District Rural Development Authority, Patna.
6. Block Programming Officer, Manrega, Athamalgola, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Mishra, Adv.
For the Respondent/s : Mr. Vinay Kriti Singh (GA-2)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 29-07-2019

A supplementary affidavit has been filed during
the course of the day. Let it be taken on record.

2. The petitioner, who at the relevant time was
posted as Programming Officer, Atri Mohra, Gaya, has
challenged the order dated 18.06.2019, contained in Memo



No. 527, issued by the Deputy Development Commissioner, Patna, whereby he has been directed to deposit an amount of Rs. 77,880/- in the District Rural Development Authority, Patna for the same having been illegally withdrawn.

3. The aforesaid order dated 18.06.2019 reflects that there was a complaint with respect to execution of a project, bearing No. 01-05/16-17 before the MGNREGA Lokpal. On the basis of the aforesaid complaint, a Technical Committee was constituted, which found that there was a difference of Rs. 2,33,640/- in the bills which were passed and the nature of work performed. It was also found by the Technical Committee that one Mukesh Kumar, then then Panchayat Rojgar Sevak, had withdrawn excess amount by falsely generating bills on computers. One Praveen Kumar, the then Junior Engineer was charged for being irresponsible in not verifying the work done by the Contractor and no spot verification was made by him. The petitioner/Santosh Kumar was charged for not supervising the work under the Project and because of the lack of supervision by him, such excess amount was withdrawn. The amount therefore was,



by the order of the Deputy Development Commissioner, Patna, apportioned between three employees, referred to above, one being the petitioner and on each head, responsibility of payment of Rs. 77,880/- was cast.

4. The learned counsel for the petitioner has submitted that neither before the MGNREGA Lokpal nor before the Technical Committee, which inquired into the matter, was the petitioner ever heard. It has been submitted that at the relevant time of execution of the Project in question, the petitioner had supervised the entire work and when he found that the same was not satisfactory, he asked for an explanation. Piqued by such supervisory role performed by the petitioner, he was manhandled in his office. These facts would surely have been brought to the notice of the Technical Committee as also the Lokpal, MGNREGA, had the petitioner been given an opportunity of explaining his cause. The entire proceeding has been conducted behind the back of the petitioner and in a most inscrutable manner, the responsibility has been apportioned on the petitioner as well.



5. It has further been submitted on behalf of the petitioner that apart from not taking into account the facts stated above, the order impugned can be faulted also on the issue of apportionment of such so-called loss to the District Rural Development Authority. It has also been submitted that several such orders, where excess withdrawal was found and was directed to be deposited by the concerned employees, have been set-aside on the ground of such orders having been passed behind the back of such employees.

6. This Court is not referring to such cases for the simple that an order which has been impugned in the present petition has to be tested on its own merits, without drawing any parallel with the case of the other persons.

7. Mr. Kunal Tiwary, the learned counsel for the respondents/State submits that on the basis of a complaint received in the office of the Lokpal, MGNREGA, no action was taken without perusing the report by the Technical Committee. The documents were examined by the Committee and ultimately, it was found that some amount



was fraudulently/unauthorizedly withdrawn, for which, the responsibility was fixed on three persons, the petitioner being one of them. Hence, the learned counsel defended the order by stating that the records spoke for itself and there was no necessity of giving a personal hearing to the petitioner.

8. Such contention on behalf of the respondents/State is not acceptable to this Court.

9. Any order, be it administrative, judicial or quasi-judicial, has to be an informed order, otherwise, it would give rise to arbitrariness in the decision making process. An order can be sustained only if it is reasonable, which aspect can only be adjudged by the reasons given in the order. There is no reason whatsoever in the order impugned in the present petition. The factual background has not been gone into by the concerned authority. The Deputy Development Commissioner, Patna, also before passing the order, ought to have given some opportunity to the petitioner. That not having been done, the order cannot be sustained in the eyes of law.



10. The order impugned, therefore, is set-aside.

11. There would be no requirement of the petitioner to pay any amount to the District Rural Development Authority, Patna, unless the Deputy Development Commissioner, Patna, on the facts of the case, provides an opportunity to the petitioner to explain his cause and passes a fresh order in accordance with the law, finding the guilt of the petitioner to be confirmed.

12. Necessary order shall be passed by the Deputy Development Commissioner, Patna within a period of six week of the date of receipt/production of a copy of this order.

13. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	02.08.2019
Transmission Date	N/A

