

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23381 of 2019

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Sakuntee Devi Wife of Dwarika Mahto, D/o Bagan Mahto, Resident of
Village- Lataut Chhatiara, P.S.- Karade, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Secretary, Rural Development Department, Bihar, Patna.
3. The Commissioner, MANREGA (Bihar, Patna) Rural Development.
4. The District Magistrate, Sheikhpura.
5. The Director, Account Administration and Self Employment, District Rural Development Agency, Sheikhpura.
6. The Deputy Development Commissioner, Sheikhpura.
7. The Ombudsman, MANREGA, District- Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Fazal Rahman, Advocate
For the Respondent/s : Mr. Harish Kumar, GP 8

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 28-11-2019

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

2. The petitioner has moved the Court for the following
reliefs:

*“That this application is filed for issuance of
appropriate writ in the nature of certiorari to quash the
award dated 31.8.2019 vide memo no. 81/Lo. Pa.2019-
20 passed by the learned Ombudsman MANREGA,
Sheikhpura in complaint Case no. 6/2017-18 by which
he directed to recover the amount in equal proportion
from all staffs and officers including the previous
Mukhiya and further to recover half amount of Scheme
no. 0547005005/WC/2030401 year 2017-18 from all*



staffs and officer including the petitioner in equal proportion. Whereas the impugned award was passed without any notice and giving opportunity of hearing to the petitioner.”

3. The petitioner, who is the incumbent Mukhiya of Gram Panchayat Raj Chhathiya under Chewara Block of Sheikhpura district, has been saddled with recovery of money under the scheme of the year 2017-18 without there being any enquiry conducted or a finding recorded and, more importantly, without any notice to her.

4. Learned counsel for the petitioner submitted that there was a complaint with regard to the period prior to when the petitioner joined office and thereafter again for a period for which the petitioner was in office. Further, it was submitted that there was a formal enquiry report which found irregularities in the schemes with regard to the complaint made against the previous Mukhiya and after due notice to all, it was found that the amount had to be recovered in proportion to all persons concerned. However, with regard to the petitioner's tenure, the order of the Lokpal MNREGA itself states that the comparison of the work done could not be made due to huge area relating to the work as it was a pond, but strangely, the Lokpal MNREGA has also held that half of the work was done and, thus, recovery has been suggested



with regard to half the money. It was submitted that such finding is totally perverse and without any basis.

5. Learned counsel for the State was not in a position to defend the order on the simple point of there being no notice to the petitioner and further that in the so called order of the Lokpal MNREGA itself it has been written that the enquiry based on spot verification could not be made and, thus, on a query of the Court as to how a conclusion has been arrived showing only 50% work to be done and recommendation for 50% recovery has been made, learned counsel for the State could also not justify the same from the records.

6. Having considered the aforesaid, the Court finds that the order impugned cannot be sustained on the short point of there being violation of principles of natural justice and further that even the discussion in the order is totally inadequate and in fact the finding of half the work being done and recommendation for recovery of half the amount, is based on absolutely *nonest* ground.

7. Accordingly, the application is allowed. The order impugned dated 31.08.2019 stands quashed to the extent it relates to the complaint against the petitioner.

8. However, since the matter relates to works done under MNREGA scheme and the allegation is of embezzlement of public



money, the Court would only observe that the authorities concerned shall be at liberty to go into the aspect and conduct a thorough enquiry, however, after following the due procedure of law, including the basic requirement of sending notice to all concerned and giving them due and reasonable opportunity of being heard. The Court would further clarify that it has neither gone into nor expressed any opinion on the merits of the matter.

(Ahsanuddin Amanullah, J)

Anjani/-

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