

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1910 of 2012

1. Smt. Mankunwar, W/o Shri Harinath, Aged About 45 Years, R/o village Davra, P.O. Davra, Tehsil Balrampur P.S. Balrampur, District Balrampur, Presently working as Sarpanch, Gram Panchayat-Davra, Janpad Panchayat-Balrampur, Distt. Balrampur, Chhattisgarh

2. Ramnarayan Gupta, S/o Late Ramdas Sao Aged About 63 Years, R/o village Davra, P.O. Davra, Tehsil Balrampur, P.S. Balrampur, District Balrampur, Presently working as Up Sarpanch, Gram Panchayat Davra, Janpad Panchayat Balrampur, Distt. Balrampur, Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh, Through Secretary, Department of Panchayat & Rural Development, D.K.S. Bhawan, Mantralaya, Raipur, P.S. Civil Line-Raipur, Chhattisgarh

2. Chief Executive Officer, Janpad Panchayat- Balrampur, Distt. Balrampur, P.S. Balrampur Chhattisgarh

3. Lokpal, Mahatma Gandhi Rastriya Gramin Rojgar Guarantee Yojna, Surguja, P.S. Kotwali, Ambikapur, Distt. Surguja, Chhattisgarh

4. Smt. Amina Lakra, Rojgar Sahayika, Gram Panchayat Davra, P.O. Davra, P.S. Balrampur Janpad Panchayat Balrampur, District Balrampur, C.G.

--- Respondents

For petitioners- Shri Pawan Shrivastava, Advocate.
For State-Shri Soumya Rai, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

28/08/2019

Heard.

1. Instant petition is against the order dated 25/08/2012 whereby the Lokpal appointed under the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (for short 'MGNREGA') the Ombudsman has directed for lodging FIR against the petitioners. Petitioner No.1 Mankunwar was Sarpanch of Gram Panchayat Dabhra and petitioner No.2 Ramnarayan Gupta was Up Sarpanch of Gram Panchayat Dabhra.

2. Learned counsel for the petitioners would submit that before such order was passed no opportunity of hearing was given however by the CEO or the Ombudsman. Though impugned order refers to enquiry by the

CEO, Janpad Panchayat Balrampur, therefore order is bad in law. He submits that one of the co-accused Vindhyaachal Jaiswal has been exonerated in WPC No.2061/2012 by the coordinate bench of this court on 24/10/2018.

3. Learned State counsel opposes the argument and submits that the petitioners were provided opportunity of hearing by the CEO.

4. Perusal of the record and the reply filed do not reflect that any opportunity of hearing was given to the petitioners. Though the impugned order para 1 refers to one enquiry made by the CEO Janpad Panchayat Balrampur but whether during the enquiry the petitioners were heard or not is not clear. If the petitioners were heard and the same being the main thrust of argument and the averments in the petition, the State should have placed document on record to show that the petitioners were heard during the enquiry so as to give a finding. Even scheme of Ombudsman which is framed would show that even Ombudsman comes to conclusion then opportunity of hearing is to be provided so that rules of natural justice are followed. Perusal of the impugned order and the document filed by the State also do not support the fact that the petitioners were ever heard in any enquiry. Prima facie it appears that rules of natural justice were not followed before such finding in the order dated 25/08/2012 was arrived at. Consequently, the impugned order is set aside against the petitioners. On similar set of facts order against the other person is quashed in WPC No.2061/2012. Now the matter is remitted back to the Ombudsman for passing fresh order in accordance with law after providing opportunity of hearing to the petitioners.

5. Accordingly, the petition stands allowed to the extent indicated above.

Sd/-

(Goutam Bhaduri)

JUDGE

