

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 649 of 2020

Shyam Lal Patel S/o Shri Kaliram Patel Aged About 60 Years Panchayat Secretary, Village Panchayat Kachanda (Now Suspended), Resident of Village- Ghuthiya, Tahsil Nawagarh, Civil and Revenue District- Janjgir-Champa Chhattisgarh. **--- Petitioners**

Versus

1. State of Chhattisgarh through- the Secretary Department of Panchayat, Mahanadi Bhawan, New Raipur Chhattisgarh.
2. The Collector Janjgir, Civil and Revenue District- Janjgir-Champa Chhattisgarh.
3. The Sub Divisional Officer (Revenue) Janjgir, Civil and Revenue District- Janjgir-Champa Chhattisgarh.
4. The Chief Executive Officer Zila Panchayat Janjgir Cum Member Secretary Zila Swachchha Bharat Mission (Gramin) Management Committee, Janjgir, Civil and Revenue District- Janjgir-Chamapa Chhattisgarh.
5. The Chief Executive Officer Janpad Panchayat Nawagarh, Civil and Revenue District- Janjgir-Champa Chhattisgarh. **--- Respondents**

For the Petitioner : Mr. Parasmani Shrivastava, Advocate.

For the State/Respondents : Mr. Neeraj Choubey, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

29.01.2020

1. The challenge made in this writ petition is to the order dated 19.12.2019 whereby respondent No.5 Chief Executive Officer, Janpand Panchayat, Nawagarh has ordered the petitioner to make payment of Rs.9,10,000/- within a period of 3 days otherwise it is stated therein that the FIR would be lodged.
2. It is contended that while the amount was withdrawn, the petitioner was not In-Charge to execute the concerned work and it is stated that before such order is passed, the petitioner was not given any opportunity of hearing and the liability Rs.9,10,000/- has been saddled upon him.

3. Learned counsel refers to the similar case wherein the order has been passed by the Co-ordinate Bench of this Court on 17.01.2020 in WPC No. 212 of 2020 and would submit that in similar situation, when the petition was filed by a Sarpanch, the Co-ordinate Bench of this Court has ordered to provide an opportunity of hearing.
4. Perused the order passed by the coordinate bench in WPC No.212/2020, wherein this Court has directed to give opportunity of hearing to the Sarpanch namely Smt. Karuna Sarve to explain her roll to disown the liability. Since the petitioner also claim that he was not In-Charge to handle Rs.9,10,000/-, it is observed that the C.E.O., may give an opportunity of hearing to the petitioner to place all the facts and documents in his possession and shall verify the facts and thereafter shall commence appropriate proceeding against the petitioner.
5. The Order (Annexure P-1) is dated 19.12.2019 which purports that in absence of payment of Rs.9,10,000/-, the FIR would be lodged within 3 days. Since it is in the month of January, 2020, consequently if the FIR has already been been lodged then in such a case, this order will loose its efficacy as otherwise it would amount to create a defence in criminal trial for the petitioner. If the FIR is not lodged by now while giving the opportunity of hearing to the petitioner and consideration, a fresh order would be passed by the Chief Executive Officer, Janpad panchayat, Nawagarh.
6. The said exercise shall be carried out within a period of 60 days from the date of receipt of this order.
7. With the above observation, this writ petition is disposed of.

Sd/-
(GOUTAM BHADURI)
JUDGE