

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3055 of 2021**

- Santulal Sonkar S/o Late Shri Taturam Sonkar Aged About 58 Years R/o Sonkar Plaza, Golbazar, Gandhi, Ward, Mungeli District Mungeli Chhattisgarh
----- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. Collector Mungeli District Mungeli Chhattisgarh
3. Nagar Palika Parishad Mungeli Through Chief Municipal Officer Mungeli District Mungeli Chhattisgarh
4. Chief Municipal Officer Nagar Palika Parishad Mungeli District Mungeli Chhattisgarh
----- **Respondents**

For Petitioner : Mr. Anand Shukla, Advocate

For Respondent/ State : Mr. Rahul Jha, G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****02.08.2021**

Heard.

1. The challenge in this writ petition is to the memo dated 20.07.2021 issued to the Chief Municipal Officer Nagar Palika Parisad Mungeli by the Collector Mungeli. By such memo, it is advised that the payment for certain drains were made but actually the drains were not constructed and without construction of the drain, the amounts have been withdrawn. Therefore, against the arraying persons including the petitioner herein who is the President of Nagar Palika Parishad Mungeli, FIR be registered.
2. Learned counsel for the petitioner submits that it was the Chief Municipal

Officer and the ancillary staff who had fortified the fact that the drain has been constructed and having so certified by the Chief Medical Officer on 19.02.2021, endorsement was made by the petitioner herein to pay the bill in accordance with law. He submits that Rule 81 of the Chhattisgarh Municipal Accounts Rules 1971 (hereinafter referred as 'Account Rules 1971') purports that it is the Chief Municipal Officer who would submit a document with his opinion for payment and if the bill exceeds the amount of Rs.50,000/-, then it would require the signature of the President and the other officers. It is contended that as per the Rule 146 & Rule 148 of the Account Rules 1971, it would be the sole responsibility of the Chief Municipal Officer, Chief Engineer and another Executive Engineer to verify the status of work done as they have the power to inspect and it is not expected that the petitioner who is the President of Nagar Palika Parisad would personally visit and inspect that whether the work is carried out or not. It is further submitted that the report having been submitted by the joint team of the Municipality endorsed by the Chief Municipal Officer, there was no other option available to the petitioner except to forward the said bill for the payment. It is therefore the Chief Municipal Officer and other arraying officers, who made the forged documents, would be responsible and not the petitioner, as such, the memo dated 20.07.2021 is bad in law.

3. Per contra, learned State counsel opposes the argument and submits that as per Section 51 of the Chhattisgarh Municipalities Act 1961 (hereinafter referred as 'Act 1961'), the duty is also cast on the President to supervise the work of the Municipality, therefore, it cannot be passed exclusively on to the Municipal officers.
4. Having perused the documents and the Account Rules 1971, certain procedures have been prescribed for payment of the bill. *Prima facie*, the bill

can only be paid according to the Account Rules 1971, if the construction is carried out. Here in this case, though the amount for construction of drain were paid but actually drain never existed or constructed. Section 51 of the Act 1961 also casts the President of the Council with certain power which includes to keep vigil over the financial and executive administration of the Council and perform such executive function as may be required and to exercise supervision and control over the acts and proceedings of all officers, servants of the Council in the matter of executing administration etc. Therefore, the argument advanced by the petitioner that the petitioner was not responsible to inspect that whether the construction of drain is made or not and only forwarded the bill for payment, the recommendation of the Chief Municipal Officer was there, is difficult to accept. If certain construction are not being carried out at all, the petitioner cannot take a stand that with closed eye depending upon the recommendation of the Chief Municipal Officer, he has forwarded the bill for payment, as such he is exempted from action acts. The other aspect, whether the petitioner was sailing on the same boat along with the other officers is a matter of investigation. The Account Rules 1971 only purports the procedural aspect therefore if certain construction is not carried out at all, but bills are paid the shelter of the Account Rules 1971 cannot be taken by the petitioner.

5. The writ petition sans merit and is accordingly dismissed.

Sd/-
(Goutam Bhaduri)
Judge