

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 353 of 2021**

Sarpanch Gram Panchayat Sukali Janpad Panchayat Lormi, District Mungeli
Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through Secretary, Department Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
2. Collector Mungeli, District Mungeli Chhattisgarh.
3. Sub Divisional Officer (Revenue) Lormi, District Mungeli Chhattisgarh.
4. Chief Executive Officer Zila Panchayat Mungeli, District Mungeli Chhattisgarh.
5. Chief Executive Officer Janpad Panchayat Lormi, District Mungeli Chhattisgarh.
6. Vinod Kumar Rajput S/o Shravan Kumar Rajput Aged About 31 Years R/o Gram Panchayat Sukali, Janpad Panchayat Lormi, District Mungeli Chhattisgarh.

---- Respondents

(Cause – title taken from Case Information System)

For Appellant	: Shri Vipin Tiwari, Advocate.
For Respondents No. 1 to 5	: Shri Vikram Sharma, Deputy Government Advocate.
For Respondent No. 6	: Shri Prasun Kumar Bhaduri, Advocate.

Hon'ble Shri Arup Kumar Goswami, Chief Justice**Hon'ble Smt Vimla Singh Kapoor, Judge****Judgment on Board****Per Arup Kumar Goswami, Chief Justice****15.11.2021**

Heard Mr. Vipin Tiwari, learned counsel for the appellant. Also heard
Mr. Vikram Sharma, learned Deputy Government Advocate appearing for

respondents No. 1 to 5 / State and Mr. Prasun Kumar Bhaduri, learned counsel for respondent No.6.

2. By this writ appeal, the appellant, who was arrayed as respondent No. 6 in WPC No. 950 of 2021, is assailing the order dated 22.02.2021.

3. Paragraphs 1 and 2 of the order, read as follows:

“1. The grievance of the petitioner is that the petitioner is that the petitioner carried out certain work of Gram Panchayat Sukali under the MANREGA Scheme. Thereafter, the amount having not been released, the petitioner made certain representation to the authorities before the Chief Executive Officer, Zila Panchayat, Lormi. On such application, a team was constituted and after inspection of the site, they gave a report vide Annexure P-5 wherein at Clause 6 a categorical finding was recorded that the petitioner has constructed 4 banks to have step in the pond and the amount though has been sanctioned but it has not yet been released by the Sarpanch, therefore, the amount be directed to be released for the said works carried out in Gram Panchayat Sukali. Learned counsel submits that the petitioner made representations to the Collector and other officers vide Annexure P-6, however, eventually the amount is not being released.

2. A perusal of enquiry report Annexure P-5 would show that after enquiry it was found that the petitioner has constructed the banks in the water body and accordingly recommended for release of the amount and the recommendation also contains that the amount

be released from the Sarpanch of Gram Panchayat, Sukali. The construction has been carried out at the behest of Chief Executive Officer, Zila Panchayat Mungeli and the enquiry report purports that direction be followed as per Annexure P-5. Considering such facts, it is directed that after due verification of the facts, the concerned respondents may release the amount within a further period of 45 days.”

4. Mr. Tiwari submits that a reading of the aforesaid order would indicate that contentions were advanced that the Sarpanch *i.e.* appellant herein had not released the amount said to be due to the writ petitioner and that the learned Single Judge also directed payment of the amount after verification of facts. However, the respondent No. 6 was not heard before the said order was passed, as no notice was issued to him. It is further submitted by him that no work was undertaken by the writ petitioner and as such, no dues are payable to him.

5. Mr. Bhaduri, while not disputing the fact that the respondent No. 6 in the writ petition was not notified and heard, submits that the work was completed by the writ petitioner. Mr. Sharma also submits that the respondent No.6 in the writ petition was not heard before the impugned order came to be passed.

6. In the case of *Johra and others v. State of Haryana and Others*, reported in **(2019) 2 SCC 324**, the Hon'ble Supreme Court reiterated the basic fundamental principle in law that no order can be passed by any Court in any judicial proceedings against any party to such proceedings without hearing and giving such party an opportunity of hearing.

7. In view of the above proposition of law, without entering into the controversy as to whether the writ petitioner is entitled to any sum of money from the respondents, we deem it appropriate to set-aside the order of learned Single

Judge and remand the case back to the learned Single Judge for fresh consideration.

8. At this juncture, Mr. Bhaduri submits that on 20.10.2021, the Chief Executive Officer of Janpad Panchayat, Lormi, District – Mungeli, *i.e.* the respondent No.5 in the writ appeal, had passed an order rejecting the claim of the writ petitioner and therefore, he may be permitted to assail the same in accordance with law.

9. Having regard to the above submission of Mr. Bhaduri, we leave it open to the writ petitioner to pursue such remedy as may be available in law.

10. The writ appeal stands disposed of with the aforesaid observations and direction. No cost.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(Vimla Singh Kapoor)
Judge