

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 8037 of 2021

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Jitendra Kumar Verma Son of Murari Prasad Verma Residing at Ward No. 15,
Village - Maldahiya, P.O. Narkatiyaganj, P.S. Shikarpur, District- West
Champara, Pin -845455.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Rural Development Department, Govt. of Bihar, Patna.
2. District Magistrate - cum- District Programme Coordinator, Mahatma Gandhi National Rural Employment Guranteed Act. (MGNREGA), East Champaran, Motihari.
3. The Deputy Development Commissioner, East-Champaran, Motihari.
4. The Programme Officer, MGNREGA, Block Chhauradano, District East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Prakash Kumar, Advocate
For the Respondent/s : Mr Sanjay Kumar, AC to AAG IV

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 01-09-2022

Heard learned counsel for the petitioner and the respondents.

2 In respect of social forestation works carried out in the year, 2011 – 2012 under the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 by the then Mukhiya, Junior Engineer (petitioner), Panchayat Technical Assistant and Panchayat Rozgar Sevak, the District Magistrate, East Champaran has issued a show cause notice to all the four persons including the



petitioner. The basis of issuance of notice is that 80% plants have been found dried up. The petitioner has submitted his response to the show cause notice dated 18.01.2018 wherein he has stated that the works in question was completed in accordance with the scheme and upon completion, the entire report had been submitted along with photographs showing the planting of trees, saplings undertaken. The works were entered in the measurement book by the Panchayat Technical Assistant, which was certified/verified by the petitioner. The petitioner has stated in his response that if at all, the saplings or plantation has dried up, the responsibility would lie with the forest authorities and those responsible for maintenance of the plantation. The District Magistrate, however, has held four persons including the petitioner who were responsible for execution of the work of plantation, to be liable for the alleged loss of Rs 4,98,000/-arising out of the loss of plants in question. The petitioner had been saddled with the liability to the tune of 10% of the loss amount.

3 It is submitted by the petitioner's counsel that the same order by which the liability has been fastened on all four persons including the petitioner, dated 19.01.2018 has been quashed by this Court vide order dated 01.04.2019 in CWJC No 19035 of 2018. The petitioner therein was the then Panchyat Technical



Assistant who had made entries in the measurement book which was subsequently certified/verified by the petitioner. In view of quashing of the same impugned order in respect of the Panchayat Technical Assistant, it is beyond any stretch of imagination to conceive that the order can be sustained against the petitioner. Taking note of the order passed in CWJC No 19035 of 2018, this Court has also allowed the writ petition of the remaining two noticees under show cause notice dated 18.01.2018 in CWJC No 3017 of 2018 under order dated 16.07.2019. The petitioner, though similarly situated, however, is the only person who continues to suffer the consequences.

4 The learned State Counsel submits that the irregularities having been found, the District Magistrate has passed the order fastening the liability for loss caused to the State exchequer.

5 On consideration of the rival submissions, this Court finds that there is no distinction in the case of the petitioner with that of Panchayat Technical Assistant or other two noticees under the common show cause notice dated 18.01.2018. The order dated 19.01.2018 having been quashed in respect of other persons, this Court would consider that the petitioner is entitled to parity and the impugned order dated 19.01.2018 cannot be sustained against



him also. The petitioner's response to the show cause notice raises identical issues as considered by this Court in CWJC No 19035 of 2018; and upon such consideration, the impugned order dated 19.01.2018 has already been quashed.

6 Accordingly, the instant writ petition is also allowed.

7 The impugned order dated 19.01.2018 stands quashed.

8 The petitioner’s counsel submits that petitioner has already deposited the 10% amount saddled upon him.

9 If that be so, the petitioner would be entitled to refund of the same for which he may approach the authorities in accordance with law.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.09.2022
Transmission Date	NA

