

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16924 of 2021

Phulbadan Devi, W/o Chandeshwar Singh, R/O Village - Bhuidharwa, P.S. -
Bhitaha, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate cum Collector, Bettiah, West Champaran.
2. District Magistrate cum Collector, Bettiah, West Champaran.
3. Deputy Development Commissioner, Bettiah, West Champaran.
4. Sub Divisional Officer, Bagaha, West Champaran.
5. Block Development Officer, Bhitaha, West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey, Advocate
For the Respondent/s : Mr. AC to GP-8

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

2 09-05-2022 On the allegation of misuse and misappropriation of public money by the petitioner in her capacity as *Mukhiya* of Gram Panchayat Raj Bhuidharwa in the district of West Champaran, the District Magistrate, by an order dated 04.08.2021, had directed the Block Development Officer, Bhitaha of the said district to register an FIR and to take steps for filing of a certificate case for recovery of money. There was also a direction for initiation of a departmental enquiry.

2. Consequent upon the said order dated 04.08.2021 an FIR has been registered. It is the petitioner's case that till date no certificate proceeding has been initiated. The said order



dated 04.08.2021 passed by the District Magistrate, West Champaran is under challenge in the present writ application.

3. Learned counsel appearing on behalf of the petitioner has submitted that though the petitioner was given an opportunity to explain against the alleged misappropriation of public money under various Schemes of the State Government, without due application of mind on the explanation so submitted by the petitioner, the impugned order dated 04.08.2021 has been passed with a direction to register an FIR and to initiate certificate case. He has submitted that the impugned order dated 04.08.2021 deserves interference by this Court as the said order does not disclose proper consideration of the explanation submitted by the petitioner.

4. We are not persuaded to interfere with the impugned action of the District Magistrate for more than one reasons. Firstly, in the opinion of the District Magistrate the conduct of the petitioner constituted a cognizable criminal offence and, therefore, he considered it desirable to lodge an FIR against the petitioner. Such decision cannot be interfered with in a proceeding under Article 226 of the Constitution of India as any interference would prejudice the criminal case, which is pending against the petitioner.



5. So far as initiation of certificate proceeding is concerned, we are of the view that there is no requirement of any explanation to be sought before initiation of a certificate proceeding nor there is any requirement of consideration of explanation and passing of an order before initiation of a certificate proceeding. No provision has been brought to our notice by learned counsel for the petitioner which requires seeking of any explanation before initiation of a certificate proceeding.

6. For the aforesaid reasons, the decision to register an FIR and to initiate certificate proceeding cannot itself be said to be penal in nature.

7. In view of the aforesaid, this application has no merit and is accordingly dismissed. We make it clear that the petitioner shall be at liberty to raise all the points which have been raised in the present writ application relating to the merits of the criminal case and the proposed certificate proceeding at appropriate stage in accordance with law.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

Rajesh/-

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