

14 16.08.2022

gd/ssd

WPA(P)/365/2022

ABDUL AREF
VS
THE UNION OF INDIA AND ORS.

Mr. Apurba Ghosh
..for the Petitioner.

Mr. Brajesh Jha
..for the Union of India.

Md. T.M. Siddiqui,
Mr. Nilotpal Chatterjee,
Mr. Vorun Kothari
..for the State.

Mr. Gangadhar Das,
Mr. Tanmoy Chattopadhyay
..for the Respondent No.8.

Mr. Suman Basu
.. for the Respondent No.13.

The allegation in this public interest petition is in respect of the defalcation of funds under the MGNREGA Scheme. The specific allegations in this petition have been made to the effect that from the month of September, 2018 till date all the tenders related to MGNREGA of the respondent/Gram Panchayat have been awarded to the family members/relatives of the Prodhan of the Gram Panchayat and Members of the Panchayat. Further, it has been alleged that the Schemes under the MGNREGA have been defragmented and, in fact, they have not been executed in reality but

at the time of uploading all the data in server the respondent/Gram Panchayat Prodhan and his companion had uploaded the data in respect of one single scheme contrary to the Rules. Further allegation is that the contracts have been awarded to near and dear ones of the Prodhan of the Gram Panchayat and in order to show that the Schemes have been completed irrelevant photographs of the Geo-tagging slabs have been done. There is a serious allegation of embezzlement of the funds allocated for MGNREGA Schemes by the respondent/Prodhan of the Gram Panchayat.

Learned counsel for the petitioner has also pointed out that the representation dated 18.05.2022 made by the petitioner to the respondent no.4 i.e. District Magistrate, Malda has not been considered till now.

Learned counsel for the State fairly submits that there is no objection in considering the petitioner's representation within a time bound period.

Learned counsel appearing for the respondent no.8/Prodhan, Fulbaria Gram Panchayat has opposed the petition by submitting that the petitioner is personally interested in the matter, therefore, the public interest petition should not be maintained and in support of the submission he has placed reliance upon

the judgment of the Hon'ble Supreme Court in the matter of *Subhash Kumar v State of Bihar and Others* reported in (1991) 1 SCC 598.

Having regard to the fact that very serious allegations of defalcation and embezzlement of public money have been made against the respondent no.8/Prodhan of the Gram Panchayat, we do not intend to accept the objection about the maintainability raised by the respondent no.8. Even assuming that the petitioner has some personal interest in the matter, but considering the nature of allegation, we are of the opinion that it would be in the public interest that the allegations are enquired into by the competent authority.

Hence, we dispose of the present writ petition by directing the respondent no.4/District Magistrate, Malda to duly consider the petitioner's representation dated 18.05.2022 and conduct an enquiry in accordance with law after giving an opportunity of hearing to all the concerned parties.

Let this exercise be completed within a period of three months from the date of receipt of a copy of this order.

It will also be open to the petitioner to submit all other relevant materials to the respondent no.4 along with the certified copy of this order.

The petition is, accordingly, disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

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