

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7056 of 2023

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Pramila Devi Wife of Late Durgakant Jha, Resident of Village Ward No. 11,
Jagatpur, P.O. Barail, Police Station and District- Supaul- 852110

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Development Department,
Government of Bihar, Patna.
2. The District Magistrate, Saharsa.
3. The Treasury Officer, District- Saharsa.
4. The Block Development Officer, Saharsa.
5. The Block Development Officer, Kahra Block, District- Saharsa.
6. The D.D.C., Saharsa.
7. The Accountant General (A and E), Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Santosh Kumar Verma, Advocate
For the State	:	Mr. Vikash Kumar, SC-11
		Mr. Akash Chatuvedi, AC to SC-11
For the AG	:	Mr. Binod Kumar Labh, SC

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 18-08-2023

Heard Mr. Santosh Kumar Verma, learned counsel
appearing on behalf of petitioner, Mr. Binod Kumar Labh,
learned counsel appearing on behalf of Accountant General and
Mr. Akash Chatuvedi, learned AC to SC-11 for the State.

2. Learned counsel appearing on behalf of
petitioner submits that the petitioner is the widow of deceased
employee namely Durgakant Jha, who had retired from the post
of Panchayat Sachiv, Kahra Block, Saharsa. Learned counsel
further submits that for any alleged misappropriation of

government money, which was attributable to the deceased employee which was not recovered during his lifetime, the same cannot be realized from the family pension of the petitioner. He submits that records reveals that no proceeding was initiated for recovery during the service period of the deceased employee for any misconduct which has been alleged against the deceased employee. The action of the respondents for recovery of Rs. 12,12,497/- is without authority of law and is fit to be set aside.

3. Accordingly, he submits that the communication made by the Block Development Officer, Kahra Block, as contained in Letter 18172 dated 06.10.2018 is not sustainable in the eye of law.

4. The petitioner has relied upon several judgments of this Court and has brought on record by way of Annexure-5 series. Under these circumstances, the petitioner seeks to file a detailed representation before the District Magistrate, Saharsa as well as for the relief prayed for in the present writ petition.

5. Per contra, learned counsel for the State submits that from the pleadings made in the writ petition as well as the evidences which have been brought on record reveals that husband of the petitioner was involved in misappropriation of fund of Rs. 12,12,497/- which was allotted to him, as advance,

for execution of certain work, the work was not completed, as such, the order of recovery is in accordance with law.

6. Having heard the rival submission made on behalf of the parties and pleadings of the respective parties, it appears that recovery has been made from the family pension of the petitioner after the death of her husband, prima facie, appears to be without jurisdiction. Since, the petitioner has sought to file a detailed representation before the District Magistrate, Saharsa, the District Magistrate, Saharsa is directed to dispose of the representation of the petitioner in accordance with law and the judgment which has been relied by the petitioner and has been brought by way of Annexure-5 series.

7. In case, the District Magistrate, Saharsa finds that the recovery is unwarranted and not sustainable in the eye of law, he is directed to return back entire amount of recovered amount to the petitioner within a period of two weeks. In case, the District Magistrate is of the opinion that the petitioner is not entitled for any relief in that case the District Magistrate must provide opportunity of hearing to the petitioner and by discussing the law laid down by this Hon'ble Court as well as Apex Court as relied by the petitioner must arrive at definite finding that petitioner's case is not identical with the case of the

law relied by the petitioner. The representation of the petitioner must be disposed of, in any case, within a period of six weeks from the date of filing of this order.

8. With the above observations and directions, the present writ petition stands disposed of.

(Purnendu Singh, J)

Manish/-
Minu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.08.2023
Transmission Date	NA