

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8302 of 2023

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Anjali Raj W/o Munna Singh Resident of Panchmahla, P.S. Panchamahla,
District- Saran, at present posted as Mukhiya, Sahajitpur Panchayat, Block
Baniyapur, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Development
Department, Govt. of Bihar, Patna.
2. The District Magistrate-cum-District Programme Co-ordinator, Saran,
Chapra.
3. The Deputy Development Commissioner, Saran, Chapra.
4. The District Panchayat Raj Officer, Saran, Chapra.
5. The Sub Divisional Grievance Redressal Officer, Sadar, Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amit Srivastava, Sr. Advocate Mr. Santosh Kumar Singh, Advocate
For the Respondent/s	:	Mr. Satya Vrat, AC to GP-10

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 19-09-2023

Heard Mr. Amit Srivastava, learned senior counsel

duly assisted by Mr. Santosh Kumar Singh, learned counsel

appearing on behalf of the petitioner and Mr. Satya Vrat, learned

AC to GP-10.

2. The petitioner being an elected Mukhiya of Gram

Panchayat Raj Sahajitpur, Block Baniyapur, District Saran,

Chapra has preferred the present writ petition seeking quashing

of the letter dated 06.05.2023 issued by the Deputy

Development Commissioner, Saran, Chapra directing the

District Magistrate, Chapra to initiate action against the



petitioner under Section 18(5) of the Bihar Panchayati Raj Act, 2006.

3. The short facts which led to the filing of the present writ petition is that in the year 2021-2022 on the direction of the District Magistrate, Chapra a project under the MANREGA was started providing the works to labourer, who returned from other States.

4. Learned senior counsel while highlighting the facts has submitted that the work, in question, was processed during the Covid-19 pandemic by the Panchayat Rozgar Sewak with the help of Programme Officer, MANREGA. The direction of the department was to provide works to those who had come from other States. A muster Roll was prepared by the Computer Operator but due to non availability of proper information and the photographs of the labourers, certain anomalies have occurred due to which some wages have been paid to unauthorized persons mistakenly.

5. It is the case of the petitioner that the payment was made by the Panchayat Rozgar Sewak and the petitioner was only authorized to supervise the work, which has never been questioned. He next submitted that even on the muster Roll there was no signature of the petitioner, however, when she



came to know about the payment of wages to some unauthorized persons, she immediately took initiative and directed the Panchayat Rozgar Sewak. Thereupon, the amount was recovered and the same has been deposited in the Government Account and in this regard, an information has also been given to the District Rural Development Authorities, Saran.

6. It is further submitted that having come to know about the aforementioned incidence, the person keeping grudge against the petitioner had filed a complaint to the Principal Secretary, Rural Development Department on 10.08.2021, in pursuance thereto, an enquiry was conducted by an Enquiry Committee headed by Sub Divisional Public Grievance Redressal Officers, Chapra.

7. From the report it appears that certain irregularities have been found at the hands of the Panchayat Rozgar Sewak and the Programme Officer in collusion with the petitioner, in crediting the wages in the account of unauthorized persons. On the basis of the said enquiry, explanation has been sought for from the petitioner and the others. Consequently, the Programme Officer has been seddled with a cost of Rs. 2,000/- and further the Panchayat Rozgar Sewak has been removed



from his post. By the impugned order, as contained in Memo No. 1124 dated 06.05.2023, after having been found the explanation of the petitioner unsatisfactory, directed the District Magistrate to initiate action against the petitioner under Section 18(5) of the Bihar Panchayati Raj Act, 2006, which is impugned herein.

8. Mr. Srivastava, learned senior counsel while assailing the impugned letter dated 06.05.2023 has straightway drawn the attention of this Court to Gazette notification published in the Bihar Gazette dated 28.11.2022. In reference thereto, he submits that the Government of Bihar in exercise of the power conferred under Section 152(5) has taken a decision to declare the Divisional Commissioner as a “LOK PRAHARI”. After coming into force of the aforementioned notification, any complaint under Sections 18(5), 44(4), 70(5) and 97(5) of the Bihar Panchayati Raj shall be enquired and heard by the LOK PRAHARI in compliance of the principles of natural justice.

9. On the strength of the Gazette Notification, he vehemently submitted that the impugned letter dated 06.05.2023 issued by the DDC Saran, Chapra is wholly without jurisdiction as the DDC is not empowered, in any manner, under the law to recommend for initiation of any proceeding under Section 18(5)



of the Bihar Panchayati Raj Act. He further submitted that even on the merit of this case, from the materials available on record, it is manifest that on the initiative taken by the petitioner, the Programme Officer, MANREGA and the Panchayat Rozgar Sewak having realised their mistake, recovered the wages which were paid unauthorisedly to the labourers who were not entitled and after recovery of the amount the same has been deposited in the account of State Government.

10. The aforesaid fact has also been admitted by the State respondent authorities, especially in paragraph no. 21 of the counter affidavit filed on behalf of the respondent nos. 2 and 3. A categorical assertion has been made that the then Programme Officer, Baniyapur, Saran has deposited an amount of Rs. 16,632/- on 25.06.2021 and sum of Rs. 37,282/- on 10.07.2021, which were wrongly deposited in the accounts of unauthorized persons but later on the amount was recovered and the same has been deposited in the Nodal account of the State vide Cheque No. 164171 and 164173 respectively before receipt of the complaint.

11. At this juncture, learned senior counsel further submits that it is the admitted fact that before institution of any complaint, the Programme Officer and the Panchayati Rozgar



Sewak have already deposited the amount and, furthermore, the materials available on record does not suggest that the petitioner was at any manner involved in ensuring the payment of wages to unauthorized persons and nor there is any adverse material which has come during the course of enquiry conducted by a duly constituted Enquiry Committee headed by Sub Divisional Public Grievance Redressal Officer, Chapra.

12. On the other hand, learned counsel for the State while refuting the contention of the petitioner has submitted that irrespective of the aforesaid fact, one thing is admitted that certain wages were paid to the unauthorized persons and the petitioner being Mukhiya of the concerned Gram Panchayat was under obligation to supervise and, as such, her complicity cannot be denied, however, he admitted the fact that the wages paid to the unauthorized persons have already been recovered and the same has been deposited in the Government account. He also admitted the fact that notification with regard to the declaration of LOK PRAHARI has already been issued by Gazette publication.

13. Having considered the submissions made on behalf of the parties, this Court finds substance in the submissions made on behalf of the petitioner. The impugned



letter dated 06.05.2023 admittedly issued after the issuance of the Gazette notification dated 28.11.2022, thus, *prima facie*, is wholly without jurisdiction as after coming into force of aforenoted notification, it is LOK PRAHARI, who is competent under the law to enquire and hear the matter for initiating any action under Section 18(5) of the Bihar Panchayati Raj Act, 2006. Further, so far the merit of this case is concerned, it is not in dispute that the wage amount which is said to have been paid to unauthorized persons has already been recovered and deposited by the Programme Officer in the nodal account of the State Government much prior to the complaint and there is no cogent material showing active participation of the petitioner in the allged irregularity, thus on this score also this Court finds substance in the case of the petitioner. In both the account, the impugned letter/order dated 06.05.2022 (Annexure - 10) is held to be unsustainable and accordingly quashed and cancelled.

14. The present writ petition stands allowed.

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.09.2023
Transmission Date	NA

