

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18695 of 2021

1. Ram Ekbal Singh, son of Late Ram Lakhan Singh Resident of Village and P.O. - Rajepur Nawada, P.s. - Pakaridayal, District- East Champaran.
2. Subodh Kumar Singh S/O Ram Naresh Singh Resident of Village and P.O. - Rajepur Nawada, P.s. - Pakaridayal, District- East Champaran.

... .. Petitioner/s

Versus

1. The Union of India through the Honble Minister, Rural Development, Agriculture and Farmers Welfare and Panchayati Raj, Government of India, Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi- 110001.
2. The Hon'ble Minister, Rural Development, Agriculture and Farmers Welfare and Panchayati Raj, Government of India, Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi - 110110001.
3. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
4. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
5. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
6. The District Magistrate, East Champaran.
7. The District Program Co-Ordinator, Motihari, East Champaran.
8. The District Panchayat Raj Officer, Gram Panchayat Raj Rajepur Nawada, Motihari, East Champaran.
9. The Block Development Officer, P.O. and P.S. - Pakri Dayal, Motihari, East Champaran.
10. Mr. Suraj Kumar Singh The Block Development Officer, P.O. and P.S. - Pakri Dayal, Motihari, East Champaran.
11. Mr. Mukesh Kumar The Block Program Officer, Block - Pakri Dayal, Motihari, East Champaran.
12. Mr. Nandlal Paswan Junior Engineer, MNREGA, Block - Pakri Dayal, Motihari, East Champaran.
13. Md. Shahabuddin Junior Engineer, MNREGA, Block - Pakri Dayal, Motihari, East Champaran.
14. The Program Officer, Gram Panchayat Raj Rajepur Nawada, Motihari, East Champaran.
15. The Junior Engineer, Pakri Dayal Circle, Rural Works Department, Government of Bihar.



16. Mr. Santosh Kumar The Panchayat Technical Assistant, Pakri Dayal Circle, Rural Works Department, Government of Bihar.
17. Mr. Lakhraj Prasad The Panchayat Sewak, Gram Panchayat Raj Rajepur Nawada, Block, P.O. and P.S. - Pakri Dayal, Motihari, East Champaran.
18. Mr. Suresh Kumar The Panchayat Rojgar Sewak, Gram Panchayat Raj Rajepur Nawada, Block, P.O. and P.S. - Pakri Dayal, Motihari, East Champaran.
19. Gram Panchayat Raj Rajepur Nawada through its Panchayat Secretary, Block, P.O. and P.S. - Pakri Dayal, Motihari, East Champaran.
20. The Mukhiya, Gram Panchayat Raj Rajepur Nawada, Block, P.O. and P.S. - Pakri Dayal, Motihari, East Champaran.
21. Smt. Uma Devi The Mukhiya, Gram Panchayat Raj Rajepur Nawada, Block, P.O. and P.S. - Pakri Dayal, Motihari, East Champaran.
22. The Ward Working Committee, Ward Nos. 1 to 13, Gram Panchayat Raj Rajepur Nawada, Block, P.O. and P.S. Pakri Dayal, Motihari, East Champaran.
23. Shri Ravindra Pandit S/O late Ram Deni Pandit R/O village - Rajepur Nawada, Motihari, East Champaran.
24. Shri Rajdeo Pandit S/O Late Ram Deni Pandit R/O village - Rajepur Nawada, Motihari, East Champaran.
25. Shri Sarvesh Pandit S/O Krishna Pandit R/O village - Rajepur Nawada, Motihari, East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms.Vagisha Pragya Vacaknavi, Advocate
For the Respondent/s : Dr. K N Singh, ASG

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-08-2023

Omnibus prayers are made in the above writ petition on bald allegations of embezzlement, diversion of funds, use of substandard materials in construction and so on. It is also very relevant that while some of the persons against



whom allegations are raised are impleaded, many others are not so impleaded.

2. The petitioners claim to be residents of Village-Rajepur Nawada and seek appropriate orders for investigation into the malpractices alleged of misappropriation of public money in the name of execution of works under the various schemes formulated by the Central Government and the State Government of Bihar. Allegations are made against the construction of roads, schools, excavation works, implementation of Mahatma Gandhi National Rural Employment Guarantee Scheme and abusive exercise of power is alleged against the party respondents impleaded as Respondents No. 10 to 13, 16 to 18 & 21 to 25; impleaded in their personal capacity. Some of them are officials of the Government, then the Mukhiya of the Gram Panchayat (Respondent No. 21) and her husband and relatives (Respondents No. 23, 24 & 25). The allegations are also with respect to the various construction works carried on in the Village right from 2018-19.

3. The petitioners assert that there are 13 wards constituted in seven villages in Rajepur Nawada and specifically point out the works with their activity code numbers carried out



between 2018-19 and 2019-20 which implementation has not been carried out. It is alleged that amounts were fraudulently withdrawn and hence a clear case of embezzlement of public money; without any substantiating material. It is also alleged that the embezzlers should be criminally prosecuted under the Prevention of Corruption Act and the Indian Penal Code; which the petitioners could as well have done. The petitioners, however, by way of the purported public interest litigation, have attempted for a roving enquiry, on directions of this Court by a writ petition in which is raised unsubstantiated and broad allegations.

4. Annexure-P/3 is said to be the details of payments made to the Respondent No. 24, which is not an authenticated document. It is not revealed from where the petitioners obtained the details or the document.

5. The petitioners then refer to a State Government Scheme called the *Har Ghar Nal Jal Yojna* for supply of water to every house in the *Panchayat*. Again bland allegations of serious embezzlement of public money is raised against the relatives of the husband of the *Mukhiya*. It is alleged that substandard materials were used in spite of clear guidelines and that some of the residents in Ward No. 4 and 13 having been



given the benefits of the aforesaid scheme. But for alleging supply of substandard materials, the petitioners do not point out any defect in construction which prevented the scheme from being operated nor does the petitioners place on record the guidelines alleged to have been issued. The petitioners again rely on a newspaper report produced at Annexure-P/4 without looking around for any substantiating material or evidence.

6. It is alleged that water towers were erected with substandard materials over private/*raiyati* lands and that for *Nal Jal Yojana* in Ward No. 8, Rs. Two lacs were paid to one Sarvesh Kumar and it is laconically stated that ‘there are many such irregularities’.

7. There are bland allegations made against the Chairman of the Ward Committee and the Ward Secretary, who are named in Paragraph-14 but not sought to be impleaded in their personal capacity. Yet another Block Teacher has been named in Paragraph-15, who is said to be colluding with the husband of the *Mukhiya*; who has also been allotted a work within the *Panchayat*, who has not been impleaded. Based on such statements and many more repeated in the same manner, bland allegations are raised of misappropriation, embezzlement and diversion of funds. The petitioners have filed a voluminous



writ petition, but without any substantiating material, which would impress this Court to invoke the extra-ordinary remedy under Article 226 of the Constitution of India.

8. A counter affidavit dated 04.05.2023 has been filed by the 4th Respondent. It is stated that for the purpose of enquiry or investigation into the schemes or programmes of the Panchayati Raj Department, the State Government has framed Bihar Panchayat (Inspection of Offices and Inquiry into Affairs, Supervision and Guidelines) Rules, 2014 (hereinafter referred to the 'Rules'). Under Rule 4(3) of the Rules, the District Magistrate is empowered to enquire into the affairs when complaints are received against the *Mukhiya*, *Up-Mukhiya* or Members or Executive Officers of a *Panchayat Samiti*. The enquiry can be with respect to failure to discharge the functions according to the provisions of the Act, ignoring or willfully omitting the directions of the Government or competent authority and commission of financial irregularities.

9. A general direction has also been issued by the Panchayati Raj Department vide letter dated 07.11.2014 with regard to the procedure to be adopted for enquiry into the allegations of irregularities, misconduct, embezzlement etc. and the action to be taken thereunder. Under Section 170 of the



Bihar Panchayat Raj Act, 2006, elected representatives of the Local Bodies are public servants and hence, under Section 170 of the Act read with Section 2(b) of the Prevention of Corruption Act, action can be taken against the elected representatives of the Panchayati Raj Institutions, including the *Mukhiya* under that Act. Letter dated 07.11.2014 is again referred, to point out para-7, which enables the complaint of a cognizable offence to be registered directly with the police.

10. It is also pointed out that for proper implementation and execution of the Government programmes, especially the Mukhya Mantri Gramin Payjal Nischaya Yojana and Mukhya Mantri Gramin Gali-Naali Nischaya Yojana, the State Government has framed the Ward Implementation and Management Committee Conduct of Business Rules, 2017, under which such works are being carried out. The works under the Nischay Yojana are being carried out through various sub-committees as per the statutory provisions. The District Magistrates are also issued with guidelines as to how the amounts can be withdrawn from the funds earmarked for the schemes aforementioned. There is also a further communication issued on 15.06.2018 with respect to the misappropriation of Government money or illegal withdrawal of funds under the



said programmes.

11. The Block Development Officer, Pakaridayal, East Champaran has filed an affidavit dated 08.05.2023. After the writ petition was filed, the District Panchayat Raj Officer had directed enquiry by the Additional Sub-Divisional Officer Pakridayal and the District Quality Monitor, East Champaran, after making a site inspection. The aforesaid enquiry officers called for relevant documents from the BDO and the Block Programme Officer and the enquiry was conducted firstly, with respect to Ward No. 4 and then Ward No. 7. The beneficiaries of the schemes were interacted with personally and their signatures were obtained, confirming the receipt of the benefits of the schemes. The enquiry team did not find any irregularity in implementation of the Central Government and the Government of Bihar Schemes in Ward Nos. 4 and 7. A joint enquiry report dated 25.04.2023 has also been filed. It has also been stated in the joint enquiry report that enquiry into all the 13 wards would take a long time.

12. Learned counsel for the petitioners specifically point out that the enquiry was conducted only in two wards. As we noticed at the outset, the allegations are unsubstantiated and broad accusations are made without any



specific instance and without any authenticated documents produced. On the basis of the allegations raised, an enquiry team was constituted and the enquiry team had inspected on site, the programmes implemented in two wards and the petitioners' allegations were found to be baseless. Based on such unsubstantiated allegations, we cannot direct an enquiry into the schemes implemented in all the 13 wards.

13. On expressing our inability to proceed further with the matter, the learned counsel for the petitioners expressed consternation and also spoke of the Government being given a free hand, if the Court does not intervene. We have to only remind ourselves about the clear separation of powers insofar as the judiciary and the executive. It is not for the Courts to administer the lands, for which the citizens have elected their representatives to the respective Houses. The majority in the legislature forms the Executive Government which device the policies and implements it, in such manner as to ensure that it reaches the citizens. Courts interfere only when arbitrary, colourable, illegal actions are specifically brought out and it is not for the Courts to monitor each and every action and implementation of the schemes by the Government. The Courts would not, in a public interest litigation filed without any



research and making bland allegations, without even impleading the persons against whom such allegations are raised, conduct a roving enquiry of every scheme implemented in a *Panchayat* that too for a period of about four years starting from 2018-19, as the petitioners would desire. We ignore the aside made by the Advocate with the disdain it deserves and dismiss the writ petition.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	11.08.2023
Transmission Date	

