

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14460 of 2022

Md. Shakir Hussain S/o Abdul Qaiyum, R/o Mohalla- Bhauara Sanghat, Ward No. 23, P.O.- Bhauara, P.S.- Madhubani, District- Madhubani, Proprietor- M/s Raushni Digital Studio and Photo State, Madhubani ... Petitioner
Versus

1. The State of Bihar through District Magistrate, Madhubani.
2. The District Magistrate, Madhubani.
3. The District Election Officer, Madhubani.
4. The Deputy Development Commissioner, Madhubani.
5. The Deputy Election Officer, Madhubani.
6. The Nodal Officer, Training Management Cell, Madhubani.
7. The Senior Treasury Officer, Madhubani.
8. Rajesh Chandra Nayak Rupchaya Studio, Madhubani. ... Respondents

Appearance :

For the Petitioner : Mr.Alok Ranjan, Adv.
For the State : Mr.Sunil Kumar Mandal, SC III with
Mr. Bipin Kumar, AC to SC III
For Respondent 8 : M/s Uday Chand Prasad, Pooja Prasad &
Manoj Kumar, Advs.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

4 14-09-2023 Heard learned counsel for the parties.

2. The present Writ Petition is filed for the following

relief(s) :

(I). For Quashing order as contained in memo no. 1096 dated 19.09.2022 issued under the signature of Deputy Election Officer, Madhubani which was served to the petitioner on 20.09.22, whereby and where under a direction has been issued to petitioner to deposit a sum of Rs. 14,53,137.00 (fourteen lakhs fifty three thousand one hundred thirty seven) within one week in District Election office Madhubani, failing which further legal action shall be taken against the petitioner and the same has been issued by a cryptic order, in a most arbitrary and illegal manner, without following any procedure, with a predetermined mind, without asking any show-cause, without giving any opportunity to defend himself,



without applying his own independent judicial mind and the same is in teeth and violation of principals of Natural justice also.

(II). For quashing letter no. 3243 dated 13.09 2022 whereby and where under a direction has been issued to the Deputy Election officer, Madhubani, by the District Magistrate, Madhubani, to recover an amount of Rs. 13,21,034+1.32,103-14,53,137/- from the petitioner and submit compliance report within a period of one week.

(III). For holding and declaring that entire proceeding initiated against the petitioner and the orders passed by the respondent authorities are cryptic, discriminatory, biased, arbitrary, illegal, colorable exercise of power and in contravention with rules and in teeth of principals of natural justice

IV). For producing enquiry report as mentioned in the letters impugned (letter no. 3243 dated 13.09.2022 and letter no. 1096 dated 19.09.2022) conducted by team constituted by the District Magistrate, Madhubani, who have submitted a fact finding ex parte report as against the petitioner, before this Hon'ble court and quashing the same, as the same has been prepared behind the back of the petitioner and neither the copy of the same was ever served to the petitioner nor any show cause was ever asked from the petitioner; no any opportunity was ever provided to the petitioner to defend himself and on the basis of such ex parte report, punitive action as against the petitioner has been taken.

(V) For any other appropriate relief/reliefs to which the petitioner is found entitled in the facts and circumstances of this case.

3. Learned counsel for the petitioner has stated that the petitioner during the elections conducted in the year 2022 has made certain supplies to the officials as per the directions given by the said officials. Learned counsel has stated that as



per the supply orders, dated 05.10.2020 and 26.10.2020 whereunder the work done by the petitioner was verified and it was stated that the same was satisfactory. Learned counsel has stated that based on the complaint made by the Respondent No. 8, the authorities have passed the order, which is impugned in the present Writ Petition directing the petitioner to refund amount of Rs.13,21,034 +1,32,103=14,53,137/-. Learned counsel has stated that before passing the impugned order the authorities have not given any show cause notice to the petitioner and the enquiry which was made by the respondents was behind the back of the petitioner without any notice. Learned counsel has stated that the impugned order may be set aside and the matter remanded back to the authority concerned for passing orders afresh duly putting the petitioner on notice and calling for his explanation.

4. Learned counsel appearing on behalf of the Respondents have not disputed the fact that before passing of the impugned order the petitioner was not put on prior notice. Learned counsel for the respondents has fairly stated that the Hon'ble High Court set aside the impugned order and remanded the matter back to the District Magistrate, Madhubani (Respondent No. 2) for passing order afresh.



5. Having regard to the above submissions the impugned order is set aside and the matter is remanded back to the District Magistrate, Madhubani, for passing orders afresh.

6. It is needless to mention that before passing any orders, the petitioner shall be given a show cause notice and his explanation called for. In case any material is sought to be relied by the authorities, petitioner shall be served with the copies of the said material. The petitioner shall be given an opportunity of hearing before passing any orders. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of the copy of the order. Any order passed shall be communicated to the petitioner.

7. With the above directions, this Writ Petition is **allowed** to the extent indicated.

(A. Abhishek Reddy , J)

Shamshad/-

U			
---	--	--	--

