

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2475 of 2023

=====

Yogendra Singh S/o Ramdayal Ray, R/o Village and Post- Ganghara, P.S.-
Shahpur, District- Patna, Bihar, the Ex Mukhiya, Gram Panchayat Raj-
Ganghara, Block- Danapur, P.S. Sahapur District- Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Rural Development Department, Government of Bihar.
3. The Commissioner, MANREGA, Rural Development Department,
Government of Bihar.
4. The District Magistrate, Patna, Bihar.
5. The Deputy Development Commissioner, Patna.
6. The Executive Engineer (MANREGA), D.R.D.A., Patna.
7. The District Programme Officer, MANREGA, Patna.
8. The Programme Officer, Danapur, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Rakesh Kumar Singh, Advocate
For the Respondent/s : Mr.Vinay Kirti Singh, GA-2

=====

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 08-04-2024 Heard the parties.

2. The following prayer has been made by the
petitioner in the writ petition which reads as under:

*“That, this is an application for
issuance of appropriate writs, orders or
directions for quashing of the order as contained
in Memo No. 1323 dated 07.07.22 issued by the
Deputy Development Commissioner, Patna (the
Respondent No. 5) so far as it relates to the
petitioner, whereby and where under an order to
the effect of recovery of Rs. 1.964 Lakhs has been
passed against the petitioner.*

*And any other appropriate writs,
orders or directions for giving reliefs may be
issued in favour of the petitioner under the given*



facts of the case.”

3. The contention of the petitioner is that the enquiry before imposing penalty was held behind the back of the petitioner, the enquiry report was not given to the petitioner and the petitioner has not been heard by the authority before imposing the penalty. In paragraph nos. 15 to 17 of the writ petition, the petitioner has made the following submissions, which read as under:

“15. That, from perusal of the order dated 07.07.2022 as contained in Memo No 1323 dated 07.07.2022 (Annexure-1) it is clear that the same has been passed on the basis of the enquiry report of the Respondents No. 6 and 7 (Annexure-3) but this enquiry report was never supplied to the petitioner by the respondents before passing and issuance of the impugned order dated 07.07.2022.

16. That, here it is pertinent to submit that the enquiry team consisting of the Respondents No. 6 and 7 did not give any hearing to the petitioner and the whole enquiry was done behind the back of the petitioner. The enquiry team without hearing the petitioner had submitted its enquiry report dated 23.12.21 (Annexure-3) in which the petitioners with others have been held responsible. In this way it is clear that the whole enquiry is the nonest under the eye of the law.

17. That, the impugned order dated 07.07.22 is based on the enquiry report dated 23.12.21 and has been issued against the petitioner without providing any copy of the enquiry report dated 23.12.21 and any opportunity to submit the reply to the enquiry report dated 23.12.21 by the petitioner. So on this count the impugned order dated



07.07.2022 is not sustainable under the eyes of law.”

4. In the supplementary counter affidavit filed on behalf of the respondent nos. 4, 5, 7 and 8, paragraph nos. 25 and 26 deal with the statement made in paragraph nos. 15, 16 and 17 of the writ petition, which reads as follows:

“25. That in reply to the statement made in paragraph No. 12 to 15 of the writ petition, it is submitted that the averment made here is not true and hence denied as opportunity has been given to the petitioner to keep his stand before the authority.

26. That in reply to the statement made in paragraph No. 16 to 17 of the writ petition, it is submitted that the petitioner is repeating the same facts which makes clear that the petitioner has to say nothing in his defense with regard to the irregularities committed by him.”

5. From the reading of the supplementary counter affidavit, it appears that none of the averments made by the petitioner have been replied by the State and vague statement has been made in the supplementary counter affidavit in support of the case of the State, thereby the statements made by the petitioner in the writ petition are admitted.

6. In these circumstances, this writ petition is allowed.

7. The order dated 07.07.2022 passed by the Deputy Development Commissioner, Patna is hereby quashed on the ground that as the enquiry was done behind the back of the



petitioner, the petitioner was not served with the copy of the enquiry report and the petitioner was not heard by the respondents. Learned counsel for the State is given liberty to proceed against the petitioner in accordance with law.

(Sandeep Kumar, J)

P. Kumar

U			
---	--	--	--

