

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20134 of 2016

Vinod Kumar son of Shri Radha Krishna Tiwari, Resident of village-
Ramgarh Via- Chainpur, P.S.- Siswan, District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Siwan.
3. The District Education Officer, Siwan.
4. The District Program Officer, Primary Education and Sarva Shiksha Siwan.
5. The Block Development Officer, Siswan.
6. The Block Education Officer, Siswan.
7. The Head Master, Middle School, Ramgarh, Siswan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Mishra
For the BEPC	:	Mr. Girijish Kumar
For the Respondent/s	:	Mr. Madanjeet Singh, GP-20

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 19-09-2024 1. The petitioner at the relevant point of time was working as Headmaster of Middle School, Ramgarh, Siswan, has filed the present writ application for quashing the letter, bearing memo no. 652, dated 25.08.2015, issued by the District Programme Officer, Primary Education and Sarva Shiksha, Siwan-respondent no. 4, whereby the petitioner was directed to refund/deposit a sum of Rs. 1,23,397/- in the account of the Bihar Education Project Council, Siwan, within the stipulated time.

2. The fact in brief is that the the petitioner (Secretary



and President of the School Education Committee) submitted an application before the District Programme Officer, Siwan, on 08.08.2012 and 18.09.2012 demanding the funds for construction of six additional class rooms in the School campus. In the response to the proposal, a sum of Rs. 6,52,740/- was sanctioned and disbursed in the School Education Committee's account of the Government Middle School, Ramgarh, Siwan, Siwan, for construction of two additional rooms, one on the ground floor with stair case and another on the roof. The petitioner after receipt of the aforesaid amount started construction work and additional class rooms on roof, because there was no space on the ground floor.

3. Learned counsel for the petitioner submits that construction work was completed and no complaint, whatsoever, was made by anybody, including the local people. However, after two years, without giving an opportunity to the petitioner and without show-cause, the respondents has directed the petitioner to refund a sum of Rs. 1,23,397/- in the account of Bihar Education Project Council, Siwan, bearing Account No.1659000106379430, IFSC Code PUNB0165900, PNB, Siwan.

4. The petitioner sought to challenge the entries



made in the measurement book (MB Book) and submits that entries were not made in the presence of the petitioner, as such, the MB Book cannot be taken into account for realization of the amount, in question, from the petitioner.

5. On the other hand, learned counsel for the respondents argued that it is an admitted position that a sum of Rs. 6,52,740/- was transferred in the bank account of the Vidhyalaya Shiksha Samiti of the School for construction of two class rooms (ACR Rooms) with stair-case on the ground floor under the scheme for the financial year 2011-12.

6. The Measurement Book has been prepared by the technical team and junior engineer, having the details of actual measurement of construction done.

7. With regard to the status of construction, the note sheet, dated 20.04.2015, records that the construction of two class rooms on the first floor of the School was completed, which was contrary to the original scheme of construction of one class room on the ground floor with stair case and another room on the first floor. As per the Measurement Book, the construction cost is Rs. 5,65,642/- and the petitioner has rightly been directed to refund the balance amount.

8. I have heard learned counsel for the parties and



have gone through the materials available on records, including the Measurement Book.

9. It is not disputed that the petitioner was given a sum of Rs. 6,52,740/- as advance for construction of two rooms, one on the ground floor with stair-case and another on the first floor. It is also not disputed that two rooms were constructed on the first floor. The entries were made in the Measurement Book by the technical team and the junior engineer reflecting the cost of construction of two class rooms as Rs. 5,65,642/-.

10. Upon perusal of the Measurement Book, it is evident that the details of construction done and its actual measurement have been recorded by the technical team.

11. The petitioner seeks to challenge the authenticity of the entries made in the measurement book, but the same has been done for the sake of challenging the measurement and no apparent defects has been pointed out by the petitioner in the measurement.

12. The principle of natural justice cannot be put into straight jacket formula and depends upon the facts and circumstances of the case. In the facts of the present case, the principle of natural justice is not attracted.

13. Since, the amount spent for construction of two



class rooms, as per the Measurement Book, is a sum of Rs. 5,65,642/-, accordingly, in my opinion, there is no infirmity in demand notice. If the petitioner does not refund the demanded amount within a period of one month from today, the respondent-authorities shall be at liberty to recover the same from the petitioner in accordance with law from the amount payable to the petitioner or otherwise.

14. This writ application stands dismissed.

(Anil Kumar Sinha, J)

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