

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11270 of 2016

Deepak Mani Tiwary Son of Shree Mitrasen Mani Tiwary, resident of Village- Sisawa Bhumihar, Post office- Sivrajpur, Police Station- Nawalpur, District- West Champaran. At present resident of Village- Padrona Colony Durga Nagar, Post office- Jangal Belwa, Police Station- Padrona, District- Khushi Nagar U.P.

... .. Petitioner/s

Versus

- 1. The State Of Bihar
- 2. The Prinicipal Secretary, Government of Bihar, Patna.
- 3. The Director, Primary Education, Patna.
- 4. Bihar Education Project through its Director, Government of Bihar, Patna.
- 5. Bihar Education Project West Champaran Sant Kabir road Bettiah, West Champaran through its Programm
- 6. The District Magistrate, West Champaran, Bettiah.
- 7. The District Education officer, Champaran, Bettiah.
- 8. The District Programme Officer, Primary Education Sarv Shiksha Abhiyan, West Champaran, Bettiah.
- 9. The Block Development officer, Madhubani, West Champaran.
- 10. The Block Education officer, Madhubani, West Champaran.
- 11. Mr. Jahrul Haque the Technical Supervisor, Madhubani West Champaran.
- 12. The Circle Officer, Madhubani, West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dhananjay Choubey  
Mr.Milind Kumar Mishra  
For the State : Mr. Prasant Pratap, GP 6  
For the BEPC : Mr. Girijesh Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA  
ORAL ORDER

4      06-05-2024      1. The petitioner has challenged the memo no. 1797, dated 25.06.2016, issued by the District Programme Officer, Primary and Sarb Shiksha Abhiyan, West Champaran, Bettiah, whereby he has been directed to refund a sum of

₹ 5,01,115/- towards the advance amount, which was handed over to the petitioner for construction of school building.

2. The petitioner, being the Incharge Headmaster of the Government Primary School, Semariya Madhubani, West Champaran, was instructed to construct the school building. There is allegation against him that he has not constructed the school building as per the map and specification provided to him and thereby has misappropriated the amount in question.
3. Learned Counsel for the petitioner submits that the map for construction of the school building was made available to respondent no. 11, namely, Mr. Jahrul Haque, who was the technical Supervisor. No map was provided to the petitioner by the respondents and only cheque was given to him for construction of the school building. The petitioner was directed to construct three class rooms on the ground floor and three class rooms on the first floor, along with staircase and railing. In the measurement book, respondent no. 11 purposely and intentionally not mentioned the construction of staircase and railing, as, according to him, the map of construction of staircase

was not there. The petitioner also constructed a wall on the first floor in front of verandah and class room.

4. On the other hand, learned Counsel for the Bihar Education Project Council submits that the fund was made available only for construction of additional class room on the ground floor, but the petitioner, with an intention to misappropriate and swindle the Government fund, constructed raw stairs, which will cause danger to the life of the students. The map did not provide any provision for construction of staircase and railing and only six rooms, in two parts, were to be constructed on the ground floor.
5. Referring to the map, learned Counsel submits that the construction was to be done with piling as per National Building Code for swelling soil only. Drawing for construction of three class rooms with additional class rooms without staircase is specifically there in the map. The petitioner has made the construction without any pile foundation and, as such, in connivance with other respondents, misappropriated the Government fund.
6. I have heard learned Counsel for the parties concerned.
7. Taking into consideration the claim and counter claim, I

feel it appropriate to refer the matter before the District Magistrate, West Champaran, at Bettiah, for verification and thorough examination of construction as per map in presence of the petitioner and in consultation with the competent civil engineer working in the district. This process shall be completed by the District Magistrate within a period of three months.

8. After verification and examination of the nature of construction, the District Magistrate shall issue notice to the petitioner to submit his objection, if any, and representation within a period of fifteen days.
9. Upon submission of representation/objection by the petitioner, the District Magistrate, after giving opportunity of hearing to the petitioner, shall dispose the representation/objection expeditiously, preferably within a period of three months from the date of filing of the representation/objection.
10. It is made clear that if any amount is found recoverable from the petitioner, the same can be realized from him as per law.
11. Till a final decision is taken by the District Magistrate, there shall be no recovery of the amount, in question, if

the same has not been recovered as yet.

12. With the aforesaid observations and directions, this writ application is disposed.

**(Anil Kumar Sinha, J.)**

Prabhakar Anand/-

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