# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No.2786 of 2016**

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Sambhav having its registered office at Biratpur, Aurangabad, P.S.-Aurangabad Town, District- Aurangabad through its Secretary Rajiv Mohan Patwardhan, son of Sri M.P. Patwardhan

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Govt. of Bihar, Patna
3. The Principal Secretary, Rural Development Deptt., Govt. of Bihar, Patna
4. The Secretary, Ministry of Rural Development, Rural Development Deptt., Govt. of India, New Delhi
5. The Collector, Aurangabad District, Aurangabad, Bihar
6. The Deputy Development Commissioner cum Chief Executive Officer, District Rural Development Agency

... ... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rakesh Kumar Samrendra, Advocate

For the Respondent/s : Mr. Ram Vinay Prasad Singh, AC to GA XII

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**CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY**

**CAV JUDGMENT**

**Date : 09-08-2024**

This Writ petition has been filed by the petitioner Sambhav (a registered Society), through its Secretary, for the following relief:

> *" i) For Commanding the respondents to make payment of admitted outstanding due amounting to Rs. 36.76 lacs to the petitioner for the work executed by it under the Central Govt. sponsored scheme i.e. Swarnajayanti Gram Rojgar Yojna (S.G.S.Y.) in the district of Aurangabad."*
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> *ii) For commanding the Respondents to pay interest @ 16% per annum with effect from the*

*due date of payment i.e. 31.12.2011 till the date of actual payment made to the petitioner .*

*iii) For any other relief(s) to which the petitioner may be found entitled to in the facts and circumstances of the case."*

2. The brief facts culled out of the petition are that the petitioner is a Non Governmental Organisation (N.G.O.) registered under the Societies Registration Act, 1860, bearing Registration No. 66/84-85 having its office at Aurangabad, Bihar and is engaged in carrying out several development and welfare scheme for poor people living in rural areas of the State of Bihar. It is submitted that the Ministry of Rural Development, Government of India has launched a programme known as "Swarnjayanti Gram Swarozgar Yojana" (SGSY) in the year 1999 with an objective to bring the poor families above the poverty line. For proper implementation and review of the progress of the said scheme, the SGSY Committee was constituted at the district level under the Chairmanship of the Collector/Chief Executive Officer, and at the State level under the Chairmanship of the Chief Secretary/Development Commissioner including the representative of the Central Govt.

3. It is submitted that a meeting of SGSY Committee at District level, Aurangabad was held on 26.03.2003 and as per

Clause 3.8 of SGSY guidelines, the petitioner was selected and registered as a facilitator for implementation of the works relating to Self Help Group in the district of Aurangabad and a formal agreement was executed between the petitioner and the Deputy Development Commissioner – cum – Chief Executive Officer, D.R.D.A., Aurangabad (respondent No. 6) on 17.05.2003 (Annexure-2) for the formation, nurturing, basic orientation training capacity building, Account training and skill development training of Self Help Group in Aurangabad District and to form 1500 Self Help Groups as prescribed under SGSY guidelines' paragraph nos. 3.4. to 3.28. It is further submitted that after aforesaid agreement, the Collector, Aurangabad, sent a letter bearing Memo No. 981 dated 01.07.2003 (Annexure-3) to the Block Development Officers, Branch Managers of all Commercial/Gramin Bank in the district of Aurangabad to co-operate with the petitioner. Being the facilitator for implement of works relating to Self Help Groups in the District of Aurangabad under SGSY, the petitioner had successfully done the assigned work as per the guidelines and the agreement and accordingly, part payment has already been made to the petitioner by order of Respondent No. 6 vide Memo Nos. 1456 and 616 dated 09.08.2008 and 15.07.2009 (Annexures-4 and

4/1) respectively.

4. It is contended that as per the agreement under SGSY in the district of Aurangabad, the petitioner has further executed the work amounting to Rs. 36.76 lakhs till 31.12.2011. The Officer on Special Duty, Rural Development Department, Govt. of Bihar had sent a letter dated 11.10.2012 (Annexure-5) to Respondent No. 6 regarding the work executed by the NGO in the District of Aurangabad till 31.12.2011 in order to make the fund available for payment and in response to the aforesaid letter dated 11.10.2012, respondent No. 6 sent a letter dated 18.3.2013 (Annexure-6) to the Officer on Special Duty mentioning the outstanding dues amount to be paid to the N.G.O for execution of aforesaid work. It is specifically admitted in the letter that the outstanding dues to the petitioner for execution of the said work prior to 31.12.2011 is Rs. 36.76 lakhs. By letter dated 28.11.2013 (Annexure-7), the respondent No. 6 sent a reminder to the Officer On Special Duty, Rural Development Department to make the funds available for payment to the NGOs for execution of work in question.

5. It is further contended that the petitioner had made several representations to the Respondent No. 6 regarding the payment of admitted amount of outstanding dues of Rs. 36.76

lakhs along with interest, but the payment has not been made to the petitioner hence the petitioner was constrained to file this Writ application.

6. A detailed counter affidavit has been filed by the respondent No. 6.

7. It is averred by respondent no. 6 in paragraph 11 of the counter affidavit, that the payment of admitted dues has not been made to the petitioner, due to lack of fund and that he is not responsible for the same, as he has written several letters to the concerned authority (Annexures A to G) to make available the fund in order to make payment to the petitioner. It is also averred in counter affidavit that after receipt of money from the Department, the payment would be made to the petitioner. It was further averred that SGSY Scheme had been closed and the fund whichever available were transferred to concerned account according to the direction of R.D.D. vide letter No. BPLPS/Proj/490/13/5786 dated 06.03.2014 (Annexure-H).

8. A supplementary counter affidavit has also been filed on 17.07.2017 on behalf of the Respondent Nos. 5 and 6. It is averred in paragraph 6 of the supplementary counter affidavit that this Hon’ble Court vide order dated 28.06.2017 has been pleased to direct that “*the State must ensure payment of the*

*entire admitted dues along with interest to the petitioner within the aforesaid period of two weeks*". It is further averred that part payment of Rs. 17 lakhs has already been made to the petitioner and in light of the order dated 28.06.2017 of this Court and the claim of the petitioner regarding the balance of the admitted due was to be examined by the DRDA and on calculation, an amount of Rs. 2,37,000/- was found to be payable to the petitioner, interest on due amount was also calcualted and on calculation it came Rs. 2052/- and accordingly cheque dated 03.07.2017 of Rs. 2,37,000/- and cheque dated 05.07.2017 of Rs. 2052/- have been issued in favour of the petitioner and the said information of this effect was communicated to the petitioner though registered post vide letter dated 03.07.2017 requesting therein to receive the cheques from the office of DRDA but the petitioner has refused to accept / receive the cheques. It is contended that the Respondent No. 6 personally tried to hand over letter No. 944 dated 20.6.2017 but the petitioner has not received the same.

9. In reply to the supplementary counter affidavit of respondent nos. 5 and 6, the petitioner filed a rejoinder contending that from perusal of letter dated 18.03.2013 (Annexure-6) it is evident that Respondent No. 6 has clearly

admitted the outstanding dues payable to the petitioner for execution of work prior to 31.12.2011 is Rs. 36.76 lakhs. The petitioner has brought on record the calculation chart issued under the signature of Respondent No. 6 (Annexure-11) showing the number of SHG of the petitioner and the total amount of Rs. 36.76 lakhs payable to the petitioner. Further petitioner has brought on record Annexure-12, which is a letter dated 06.02.2017 sent by Respondent No. 6 to Secretary, Rural Development Department, Bihar, stating therein that Rs. 36.76 lakhs was payable to the petitioner and it was also mentioned that Rs. 17 lakhs amount was available with D.R.D.A., Aurangabad and a request was made for guidelines as to whether Rs. 17 lakhs should be paid to the petitioner against the outstanding dues of Rs. 36.76 lakhs or the said amount (Rs. 17 lakhs) be refunded to the Department. In response to letter dated 06.02.2017 the Commissioner, Self-Employment, Rural Development Department addressed a letter dated 27.04.2017 (Annexure-13) to the Respondent No. 6 stating therein that out of the outstanding dues amounting to Rs. 36.76 lakhs, Rs. 17 lakhs was paid to the petitioner and the remaining outstanding dues of Rs. 19.76 lakhs was made available to Respondent No. 6 through RTGS/Bank draft for payment of the same to the petitioner. The Commissioner, Self-Employment, Rural Development Department has also mentioned in his letter dated 27.04.2017 that vide letter dated 30.06.2014, Rs. 37.47 lakhs was transferred to the account of the Rural Development Department, whereas in the letters dated 12.08.2013, 12.02,2014 and 06.03.2014 there was clear direction to repay the outstanding dues of the petitioner. It is clear that there was a lapse on part of Respondent No. 6 in complying with the direction for which the petitioner was constrained to approach this Court and an awkward situation arose before the Department. It is also averred by the petitioner in reply to the supplementary counter affidavit that the petitioner has addressed letters dated 04.08.2017, 05.08.2017 and 08.08.2017 to the Respondent No. 6 stating that admitted outstanding dues payable to the petitioner for execution of work prior to 31.12.2011 is Rs. 36.76 lakhs and out of that Rs. 17 lakhs was paid to the petitioner, the remaining amount of Rs. 19.76 lakhs is payable to the petitioner for which the fund has been released and transferred from Rural Development Department to D.R.D.A., Aurangabad. The petitioner is also entitled to payment of interest on outstanding dues w.e.f. 31.12.2011 when it became due till the date of the actual payment. It is also contended that respondent No. 6 is trying to create superfluous dispute with respect to the outstanding dues for his vested interest and also arbitrarily calculated the amount of interest as Rs. 2052/-. The petitioner has also filed supplementary affidavits and brought on record certain guidelines of Swarnjayanti Gram Swarozgar Yojana.

10. Heard the rival contentions of the Learned counsel for the petitioner as well as Learned counsel for the respondents.

11. From perusal of contents of paragraph 11 of the counter affidavit filed on behalf of Respondent No. 6, it appears that the respondent No. 6 himself admitted that the payment of admitted dues has not been made to the petitioner due to lack of fund and he is not responsible for the same as he has written several letters to the concerned authority (Annexures A to G) to make available the fund so that the payment could be made to the petitioner. In this context, the petitioner has brought on record a letter dated 06.02.2017 (Annexure-12) sent by Respondent No. 6 to the Secretary, Rural Development Department, Bihar stating therein that Rs. 36.76 lakhs is payable to the petitioner and further request was made for guidelines for payment of Rs. 17 lakhs to the petitioner against the outstanding dues of Rs. 36.76 lakhs. Further petitioner has

brought a letter on record dated 24.07.2017 (Annexure-13) sent by Commissioner, Self Employment, Rural Development Department to the Respondent No. 6 stating therein that out of the outstanding dues amounting to Rs. 36.76 lakhs, Rs. 17 lakhs was paid to the petitioner and the remaining outstanding dues of Rs. 19.76 lakhs was made available to the Respondent No. 6 through RTGS/Bank draft for payment of the same to the petitioner. The Commissioner, Self Employment, Rural Development Department has also mentioned in his letter dated 27.04.2017 that vide letter dated 30.06.2014, Rs. 37.47 lakhs was transferred to the account of the Rural Development Department, whereas in the letters dated 12.08.2013, 12.02,2014 and 06.03.2014 there was clear direction to clear all the outstanding dues of the petitioner. It is clear that there was a lapse on part of Respondent No. 6 in complying with the directives due to which the Writ petition was filed by the petitioner.

12. From the facts and circumstances stated above it is crystal clear that the respondents have themselves admitted about the admitted outstanding dues of the petitioner and respondents themselves accepted by filing counter affidavit about the outstanding admitted dues to the petitioner of Rs.

19.76 lakhs.

13. Accordingly, this Court is of the considered view that the petitioner is entitled to get the remaining / balance outstanding admitted dues amount of Rs. 19.76 lakhs and the interest thereon from the respondents.

14. This writ application is allowed with direction to the respondents to pay the remaining / balance outstanding admitted dues with simple interest @ 9% to the petitioner within a period of three months from the date of receipt / production of a copy of this judgment.

15. Interlocutory application(s), if any, shall stand disposed of.

**(G. Anupama Chakravarthy, J)**

Spd/-

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| **AFR/NAFR** | NAFR |
| **CAV DATE** | 31.07.2024 |
| **Uploading Date** | 14.08.2024 |
| **Transmission Date** | NA |