

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17757 of 2022

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Santosh Kumar Mishra S/o Madan Mohan Mishra Kalhua, Saran, Bihar-841422.

... .. Petitioner/s

Versus

1. State of Bihar through Principal Secretary of Rural Development Department
2. Mukhiya, Sahajit Panchayat, Block-Baniyapur, District-Saran (Chhapra)
3. Program Officer, Block-Baniyapur, District-Saran (Chhapra)
4. Block development Officer, Baniyapur, District-Saran (Chhapra)
5. District Program Officer, Saran (Chhapra)
6. District Magistrate, Saran (Chhapra)

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Danish Sami, Advocate Mr. Manoj Kumar Singh, Advocate Mr. Raj Kumar, Advocate
For the Respondent/s	:	Mr. Anjani Kumar (AAG4) Mr. Alok Kumar Rahi, AC to AAG-4 Mr. Utkarsh Bhushan, Advocate
For the respondent no.2	:	Mr. Santosh Kumar Singh, Advocate Mr. Sanjay Kumar Singh, Advocate
For the Intervenor	:	Mr. Avinash Chandra, Advocate Mr. Apurva Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 16-02-2024

The writ petition, in the nature of Public Interest Litigation, sought a comprehensive investigation into the irregularities alleged in the payment to the workers under Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (hereinafter referred to as the ‘MGNREG Act’ in short). A



specific reference was made to the letters send by the Sub Divisional Public Grievance Redressal Officer, Chapra, and directions were sought to initiate proceedings against those, found responsible for the irregularities. Personal allegations were levelled against the respondent nos. 2 and 3, the Mukhiya of Sahajitpur Panchayat, and the Programme Officer of Baniyapur block. Allegations were also levelled against the Panchayat Rozgar Sevak (PRS), Sahajitpur and the husband of respondent no. 2. We have to immediately notice that none of them were impleaded in their personal capacity, despite allegations of embezzlement of public fund and gross irregularities in the implementation of MGNREG scheme.

2. The projects related to the '*Baandhs*' (embankments) in Hafizpur from Giri Tola bridge to Munna Shah's land and the other from Shyam Narayan Giri's land to Pal Road and the construction work under Pradhan Mantri Awas Yojna were subjected to the allegations. The specific accusation was that, though the muster roll was prepared of the workers, the persons in such rolls were either fictitious or dead and many of them had not worked under the scheme. Bank accounts were said to have been opened fraudulently to transfer the amounts under MGNREG scheme. Many complaints were registered regarding the alleged



scam; numbering around 20 were produced as Annexure-1. MGNREG scheme is a tribute to the Father of the Nation, who sacrificed his life for the welfare of the country and it had its objective in enhancing the livelihood, food security and quality of life in rural areas providing at least 100 days of guaranteed wage employment in a financial year, to every household whose adult members volunteer to do unskilled manual work. The said objective was frustrated and the money intended for such lofty purpose of enriching the weaker sections of the society and ensuring a basic livelihood, had been violated by the embezzlement carried out, is the argument.

3. Separate counter affidavits were filed by the second respondent, respondent nos. 3, 5 and 6 together and supplementary affidavit separately by the sixth respondent. The affidavits, in fact accepts that there were irregularities, in the implementation of the MGNREG scheme and that there has been instances of the money having been diverted; but most of which having been recovered. In view of the complaints received, the District Magistrate, Saran by order dated 09.02.2022 constituted a two Member Enquiry Team headed by the Sub Divisional Public Grievance Redressal Officer, Sadar Chapra, and the Assistant Engineer, Rural Works Department-1, Saran (Annexure-A). The



Inquiry team submitted its report to the District Magistrate, Saran (Annexure-B).

4. Irregularities were detected as per Annexure-B report, in both the projects of building embankments. One of the workers was found to be in Government service and another who had expired five years ago. Some persons in whose name wages were disbursed filed statements that none in their family were employed in the scheme. *Prima facie* respondent nos. 2 and 3 and the Panchayat Rozgar Sevak, were found to be responsible for the irregularities. The irregularities noticed were, diversion of money payment without knowledge of the beneficiary, muster roll not being managed properly, thumb impression of the dead person having been obtained, suspicious issuance of job cards and irregular opening of bank accounts. Based on the enquiry report, after seeking show cause from the persons alleged with the irregularities, the Programme Officer and the Panchayat Rozgar Sevak were proceeded against.

5. The Programme Officer, Baniapur Block, Saran, had submitted that noticing the irregularities, the recovery of Rs. 16,600/- was effected as on 25.06.2021 and Rs. 37,282/- on 10.07.2021. The recovered amounts were also deposited in the nodal account of the State. The Panchayat Rozgar Sevak also



submitted a reply, in which it was stated that in fact the wages paid to the Government employee was actually paid to another person with the same name. Insofar as the dead person is concerned, his wife admitted that she had carried out the work and conceded to have not informed the demise of her husband. The wages paid to her have been recovered. Affidavits were also produced by certain persons, admitting to have worked in the scheme.

6. The District Magistrate, Saran at Chapra, sought the opinion of the Deputy Development Commissioner, Saran and in accordance with his opinion, as also after looking at the responsibilities and duties of the Panchayat Rozgar Sevak under MGNREG Act, 2005 together with the guidelines of the year 2013, the Panchayat Rozgar Sevak, one Depesh Kumar, was found to have committed dereliction of duty and gross negligence. The Panchaya Rozgar Sevak was terminated with immediate effect by office Memo No. 523 dated 02.03.2023, and the concerned Programme Officer, who was responsible for supervisory lapses, was issued with a warning and a fine of Rs. 2000/-. The present District Magistrate, has also filed an affidavit dated 23.11.2023, showing the recovery made.

7. We have, by an interim order, sought for a report as to



whether any prosecution was initiated against the persons, who were alleged with such irregularities. It is evident from the counter affidavit that the second respondent ‘Mukhiya’ was issued with a show cause notice and no further proceedings were taken. The show cause notice was issued on a *prima facie* consideration and after considering the reply, the Mukhiya was exonerated. The responsibility was fixed on the Panchayat Rozgar Sevak, who was terminated from service. The third respondent, Programme Officer of the Baniya Block, was also found to have committed supervisory lapses which led to the irregularities not being noticed and he was issued with a warning and imposed with a penalty.

8. We find the purpose of the Public Interest Litigation having served and we find no reason to keep it pending.

9. The writ petition, would stand closed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.02.2024
Transmission Date	NA

