IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3672 of 2024

CNR No. BRHC010136732024

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Bijay Kumar Mandal Son of Phoolchand Mandal Resident of Village- Bari Jamin, P.O.- Murhan, P.S.- Goradih, District- Bhagalpur.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary, the Rural Development Department, Government of Bihar, Patna.
2. The Secretary, the Rural Development Department, Government of Bihar, Patna.
3. The Commissioner, MANREGA, the Rural Development Department, Government of Bihar, Patna.
4. The Divisional Commissioner, Bhagalpur.
5. The District Magistrate-cum-District Programme Coordinator, Bhagalpur.
6. The Deputy Development Commissioner cum Additional District Programme Co-Ordinator MANREGA, Bhagalpur.
7. The Director, Accounts Administration and Planning, Bhagalpur.
8. The District Programme Officer, Goradih, Bhagalpur.
9. The Executive Engineer, MANREGA, Bhagalpur.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Jagjit Roshan, Advocate
For the Respondent/s : Mr.Rajesh Kumar, GP 26
: Mr.Amrit Anunay, AC to GP 26

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR

ORAL ORDER

9 29-10-2026 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ application has been filed for the following reliefs:

(I) For issuance of writ or writs in the nature of Certiorari quashing the Order passed by Respondent No. – 6 vide Memo No. – 3589 dt.

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28.12.2023 (Annexure – P/2) whereby and whereunder an Order for recovery has been passed in an arbitrary and illegal manner against the Petitioner (Ex-Mukhiya) and other Persons, without considering the Reply to the first Show Cause (regarding first inspection) and without assigning any reason for the same and without giving any opportunity of hearing including show cause after second inspection which is a violation of Principle of Natural Justice.

(II) For issuance of writ or writs in the nature of Certiorari quashing the Inspection Report whereby and whereunder an Inspection has been conducted behind the back of the Petitioner and without giving a copy of the said inspection report to the Petitioner, an order has been passed for recovery that too without giving opportunity of hearing to the Petitioner to participate in the said Inspection.

(III) For stay of the order of Recovery passed by Respondent No. – 6 vide Memo No. – 3589 dt. 28.12.2023 (Annexure – P/2) till the adjudication of the present writ Petition.

3. The petitioner is aggrieved by the order of recovery vide Memo No. 3589 dated 28.12.2023, passed against him as the then Mukhiya without supplying him the copy of

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complaint, without associating him with the inspections, without issuing a show cause after the second inspection, and without assigning any reason.

4. Learned counsel for the petitioner submits that the petitioner, who won the Panchayati Election in 2016 and became the Mukhiya of Gram Panchayat Murhan, Block Goradih, Bhagalpur, and whose term has since expired, was served a show cause notice dated 17.08.2022 following a complaint by one Chandrashekhar Azad regarding works under the MANREGA scheme, to which, he filed his reply on 24.08.2022. Learned Counsel for the petitioner further submits that the inspection was conducted behind his back, without giving him a notice or a copy of the complaint and after a fresh inspection team was constituted and a second inspection was again conducted behind his back, but no show cause or hearing followed it and that the Respondent No. 6 passed a common order of recovery against the petitioner and others for four projects, the petitioner’s share being Rs. 2,36,557/-, without considering his reply, assigning reasons, or fixing individual roles.

5. Learned counsel for the petitioner also submits that the respondents have produced no material showing that the

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complaint was supplied to the petitioner, that he had notice of or participated in the inspections, or that the three member committee report dated 27.03.2023 was served on him before the order dated 28.12.2023 and that the assertion that all concerned parties were heard in detail is vague and unsupported by any document. The order fastens liability collectively on the Mukhiya, Panchayat Rojgar Sevak, Junior Engineer, Assistant Engineer and Programme Officer without determining the petitioner's individual role, there being no material that he personally received, misappropriated or caused the loss of Rs. 2,36,557/-.

6. Learned counsel for the State submits, that the writ application is not maintainable and relates to works under the MGNREGA scheme in Goradih Block during the petitioner's tenure as Mukhiya and that on the complaint of Chandrashekhar Azad, the then Director, Accounts Administration & Self Employment enquired into three drainage schemes, found irregularities of serious nature, and held the Panchayat Rojgar Sevak, the then Mukhiya, the Junior Engineer, the Assistant Engineer and the Programme Officer responsible, the amount being recoverable from them.

7. Learned counsel for the State further submits that

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all concerned parties having been heard in detail, the report was objected to and a fresh enquiry requested. A Three Member Committee under the Director, with the District Programme Officer and the Executive Engineer, enquired on 25.11.2022 and reported on 27.03.2023 that there was carelessness in implementation of the schemes and that the work done did not match the amount entered in the Measurement Book, and recommended recovery. A fair enquiry having been done, the order of recovery, being legal, well-reasoned and speaking, has rightly been passed, and there is no ground to quash it or the Inspection Report.

8. Having heard learned counsel for the parties and perused the record, it is evident that an administrative or quasi-judicial order of recovery has been passed without proper show-cause notice and a fair hearing violating the core principle of Natural Justice. Any order that carries civil consequences such as financial liability or recovery of public money mandates compliance with the rule of *Audi Alteram Partem*. A perusal of the impugned order reveals that the petitioner was not given an adequate opportunity to be heard and order itself is entirely cryptic. Consequently, the impugned order is quashed. The matter is remanded back to the concerned authorities to

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reconsider the petitioner's reply, affording him a personal hearing and pass a fresh reasoned order in accordance with law.

9. The writ petition is accordingly disposed of on the aforesaid terms.

(Alok Kumar, J)

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