CGHC010037342023 2026:CGHC:45271

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 633 of 2023

Toop Singh Nishad S/o Late Shri Teebhu Ram Nishad Aged About 46 Years R/o - Village- Birkoni, Post Office - Birkoni, Tahsil - Mahasamund, District : Mahasamund, Chhattisgarh

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through - Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur, Chhattisgarh

2 - Collector Mahasamund, District : Mahasamund, Chhattisgarh

3 - Sub - Divisional Officer (Revenue) Mahasamund, District : Mahasamund, Chhattisgarh

4 - Sub - Divisional Officer (Revenue) Sakti, District : Sakti, Chhattisgarh

5 - Chief Executive Officer Zila Panchayat - Mahasamund, District : Mahasamund, Chhattisgarh

6 - Chief Executive Officer - Janpad Panchayat- Mahasamund, District : Mahasamund, Chhattisgarh

7 - Tamradhwaj Nishad Sarpanch, Gram Panchayat - Birkoni, Janpad Panchayat- Mahasamund, District : Mahasamund, Chhattisgarh

8 - Shankar Lal Sahu Sarpanch, Gram Panchayat - Birkoni, Janpad Panchayat- Mahasamund, District : Mahasamund, Chhattisgarh

9 - Rajesh Kumar Gupta Sub- Engineer, Rural Engineering Services Office, Zila Panchayat Campus, District : Mahasamund, Chhattisgarh

... Respondent(s)

(Cause title taken from CIS System)

For Petitioner	: Mr. Rohit Sharma, Advocate
For State	: Mr. Hariom Rai, PL
For Respondent No. 6	: Ms. Shailja Shukla, Advocate
For Respondent Nos. 7 and 8	: Mr. Rudrapati Tripathi, Advocate on behalf of Mr. Jitendra Nath Nande, Advocate
For Respondent No. 9	: Mr. Neeraj Choubey, Advocate

Hon’ble Mr. Justice Amitendra Kishore Prasad

Order on Board

27.10.2026

1. The petitioners have filed this petition with the following reliefs:-

> *“10.1 That, this Hon'ble Court may kindly be pleased to call for the entire records in relation to the case of the petitioner from the possession of respondents for its kind perusal.*
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> *10.2 That, this Hon'ble Court may kindly be pleased to issue a writ or writs/order or orders quashing impugned order dated 03.01.2023 (Annexure-P/1) being arbitrary, illegal and against the law or in alternative to take decision after due verification of facts and circumstances within a limited time frame.*

10.3 That, this Hon'ble Court may kindly be pleased to direct the respondent authorities to take final decision after considering the objections raised by the respondent no. 7 within a period of 15 days.

10.4 That, this Hon'ble Court may kindly be pleased to direct the respondent authorities to take action against the respondents no. 7 to 9 in accordance with law and recover the amount of Rs. 12 lakhs.

10.5 That, this Hon'ble Court may kindly be pleased to direct the Sub-Divisional Officer (Revenue)/S.D.M. to initiate proceedings against the respondent no. 7 under Section 40 of C.G. Panchayat Raj Adhiniyam, 1993.

10.6 Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in favour of the petitioner.

2. The brief facts of the case are that the petitioner is a resident of Gram Panchayat Birkoni and the Ex-Sarpanch of the said village. It is submitted that Khasra No. 2374, admeasuring 9.0100 hectares (22.23 acres), is government land situated at Village Birkoni, where excavation had been carried out over the years for extracting Murum red soil. Consequently, rainwater accumulates on the land during the rainy season, giving it the appearance of a pond (Talab). The office of Janpad Panchayat, Mahasamund vide order dated 14.09.2021, granted administrative sanction of Rs. 12,00,000/- for the construction of a pond on the said land, out of which Rs. 11,99,000/- was earmarked for labour payments and

Rs. 1,000/- for materials such as stationery. The terms and conditions of the sanction order prohibited the use of machinery and contractors, required the work to be carried out in accordance with the technical sanction and approved plan, and stipulated that labour payments be made through bank accounts or post offices. It is alleged that no construction work was actually carried out, yet Rs. 7,20,000/- was paid in the names of JCB owners, while the remaining amount of Rs. 4,79,808/- was paid to only two persons, in violation of the prescribed conditions. The petitioner alleges that respondents No. 7 and 8, in collusion with respondent No. 9, a Sub-Engineer in the Rural Engineering Services Department who measured and assessed the work, misappropriated the government funds. It is further alleged that the work was not executed in accordance with the approved plan, the pond's embankments were not constructed,and forged muster rolls were prepared by including the names of villagers and persons who had not worked on the project. The information board was also not installed at the work site. Upon the petitioner's complaint regarding the alleged financial irregularities, an Enquiry Committee was constituted by Janpad Panchayat, Mahasamund. The Committee conducted an enquiry on 04.11.2022, after giving due opportunity to respondents No. 7 and 8, and found the allegations against them to be true, recommending recovery of the amount. The Committee also recorded that the information board had not been installed at the work site. It is further submitted that

respondent No. 7 had earlier challenged the enquiry report before this Court by filing WPC No. 5613 of 2022. The said writ petition was disposed of by this Court, reserving the right of the petitioner to approach the concerned authorities with objections/ submissions/representations in respect of the enquiry report and directing the respondent authorities to consider and decide the same on merits, in accordance with law, at the earliest. However, instead of taking a final decision after considering the objections raised by respondent No. 7, the Chief Executive Officer, Zila Panchayat, Mahasamund, vide order dated 03.01.2023, constituted a fresh Enquiry Committee. The petitioner alleges that this action of the respondent authorities is arbitrary, unreasonable, unfair, and contrary to law.

3. Learned counsel appearing for the petitioner, who is the complainant in the present case, submits that the respondent authorities, particularly respondent Nos. 5 to 9, have committed irregularities by failing to consider the specific complaint made by the petitioner. It is contended that, under the MNREGA scheme, a pond was required to be dug at Village Birkoni with the assistance of labourers. However, instead of engaging labourers, the concerned authorities dug the pond using a JCB machine that too at a site where a pond had already been dug. Consequently, the petitioner lodged a complaint alleging large-scale embezzlement of funds by the respondent authorities. Learned counsel further submits that pursuant to the complaint, an enquiry was conducted,

wherein the allegations made by the petitioner were found to be genuine. The enquiry revealed that funds had been misappropriated and that the pond had been dug using a JCB machine instead of engaging labourers, which is contrary to the provisions of the MNREGA scheme. However, a second enquiry was subsequently conducted, which, according to learned counsel, was impermissible in law and the said respondents were exonerated by the Committee conducting the enquiry. It is further submitted that once the committee had conducted the enquiry and submitted its findings, it became *functus officio* and, therefore, could not conduct a fresh enquiry into the same matter. In view of the aforesaid submissions, the petitioner has prayed that this Court direct an independent enquiry into the matter so that the complaint made by the petitioner may be duly considered and, if any illegality or irregularity on the part of the respondents is established, an order for recovery may be passed in accordance with law.

4. Learned counsel appearing for the respective respondents submits that the complainant bears a grudge against respondent Nos. 7 to 9 and, with a view to pressurizing them, has lodged the complaint. It is further submitted that an enquiry was conducted and, being dissatisfied with the outcome thereof, a second enquiry was also conducted, wherein it was found that the persons concerned were not involved in any misappropriation of funds or in engaging a JCB machine instead of labourers for digging the

pond. Learned counsel appearing for respondent No. 9 further submits that a complaint was lodged before the concerned jurisdictional court, pursuant to which the police submitted a report. Upon perusal of the said report, the concerned Commissioner declined to take cognizance of the complaint and dismissed the same. Accordingly, it is submitted that no case is made out against the respondents.

5. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court has considered the aforesaid aspects of the matter, particularly the fact that in the second enquiry, no irregularity was found on the part of the private respondents. Further, the complaint was also found to be not worthy, and on the basis of the police report, the pond has already been dug out,and as such, in the opinion of this Court, no further action is required to be conducted. However, considering the facts and circumstances of the case, the concerned respondents are directed to engage labourers if any development work is to be carried out under the VB-G RAM G (Viksit Bharat – Guarantee for Rozgar and Ajeevika Mission Gramin) scheme, as the scheme has been formulated for the upliftment of labourers, and all such work must be carried out in accordance with the provisions of the said Central Government scheme. The concerned Chief Executive Officers of the Janpad Panchayat and Zila Panchayat, Mahasamund, District Mahasamund (C.G.), are directed to look into the matter and ensure that development works are carried out

by engaging labourers in accordance with the applicable scheme. They shall further ensure that any allegation of embezzlement of funds be taken seriously and that an appropriate enquiry is conducted in accordance with law, wherever necessary.

6. With these observations and directions, the petition stands disposed of.

SD/-
(Amitendra Kishore Prasad)
Judge

AMIT PATEL