
(1991) 03 PAT CK 0037
In the Patna High Court
Case No : C.W.J.C. 4096 of 1990

Bhanupartap Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 20-03-1991

Acts Referred:

Bihar Rajya Panchayat Act — Section 14

Bihar Rajya Panchayat Rules — Rule 16(3), 17.2, 20, 24.12, 26

Citation : (1991) 03 PAT CK 0037

Hon'ble Judges : S. Ali Ahmad, J;G.C. Bharuka, J

Bench : Division Bench

Judgement

1. The prayer in this writ application is to quash annexure 3 a notice asking the Petitioner and other members of the Executive Committee of Bithuna Gram Panchayat in the district of Siwan to discuss matters relating implementation of the Jawahar Rojgar Yojna of the Panchayat. The grievance is that u/s 14 of the Bihar Rajya Panchayat Act there are certain compulsory duties of the Gram Panchayat but these duties are subject to general or special orders issued in this behalf by the State Government. Learned Counsel says that the implementation of the Jawahar Rojgar Yojna does not come within any order either general or special envisaged u/s 14 of the Act. Learned Counsel has also drawn our attention to the scheme regarding implemented of the Jawahar Rojgar Yojna prepared by the State Government. The Rules inter alia, provide that the Panchayat will decide as to the selection of the scheme under the Jawahar Rojgar Yojna and it will be implemented by an executing committee elected in the general meeting of the Gram Panchayat. Sub-rule (2) of Rule 16 of the scheme specifically mentions that the members of the Executive Committee shall not be members of the executing committee. Rule 17.2 also is relevant which mentions of purchases which will be necessary in executing the scheme under the Yojna. Under this rule the District Magistrate, the District Development Commissioner and the Executive Engineer will form a committee with regard to purchase of material. The Mukhia or members of the Gram Panchayat Executive Committee

as such do not come in the picture at all in execution of the scheme under the Yojna. The only stage where the Mukhia comes into picture is Rule 20 of the scheme which provides that the cheque will be signed by the Mukhia along with the Panchayat Sewak for meeting the expenses of the Yojna. Rules 24.12 and 26 have also some relevance. It mentions that the Block Development Officer and certain other officers named therein will have the power of inspection and superintendence of such scheme.

2. Mr. Ganga Prasad Rai strongly urged that the notice, annexure 3 inviting the Petitioner and other members of the Executive Committee is without jurisdiction inasmuch as the Block Development Officer has no jurisdiction to call such a meeting. We have referred in detail the provision of the scheme and it will appear from that that the power of superintendence and inspection etc. vests in the Block Development Officer. Therefore, there is nothing wrong if the Block Development Officer asked the Petitioner and other members of the Executive Committee to come to a meeting to discuss the matter regarding implementation of the scheme under the Yojna. We therefore, see no merit in this part of the argument. There is, however, some confusion on account of the last line of the first paragraph which says that the work under the Yojna has to be carried on at the block level. This sentence cannot be read in isolation. It does not mean that the methodology of the implementation of the scheme will be interfered at block level. The scheme will have to be implemented strictly according to the provisions mentioned in the Yojna itself. Before we part with this case we would like to observe that in case there is misappropriation, defalcation etc as envisaged in Rule 24.12 of the scheme then the authorities mentioned in that paragraph should without hesitation take immediate action against persons concerned. We would also like to observe that on account of misappropriation etc. the implementation of the scheme should not be stopped or delayed. We hope that in such a situation like this the concerned officers will act with some imagination and will see that the fund provided under the Yojna is spent properly and in the interest of the Panchayat as per the scheme.

3. The writ application is thus disposed of.

4. Let a copy of this order be given to the Advocate General.