

(2019) 10 JH CK 0027
In the Jharkhand High Court
Case No : Writ Petition (c) No. 4057 Of 2019

Dhura Baitha And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 25-10-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 10 JH CK 0027

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Rajeev Ranjan Tiwary, Prashant Pallav

Final Decision : Disposed Of

Judgement

1. This writ is under Article 226 of the Constitution of India, whereby and whereunder the decision as contained in letter No.49 dated 31.05.2019 passed by the Block Development Officer, Bishrampur is under challenge while fixing proportionate liability all the petitioners have been directed to make payment of the amount in order to compensate the irregularity committed in execution of work pertaining to MANREGA Scheme.

2. It is the case of the petitioners that they have been distributed the work to be executed under the MANREGA Scheme to extend the benefit to the beneficiary in the light of the said scheme the work has been allotted for its execution in the Guri Gram Panchayat but subsequent to the execution of the work certain irregularities have been found by the authority and without holding any enquiry and without issuing notice to the petitioners, the concerned authority has casted proportionate liability upon them by directing for recovery of the amount in equal share from all the petitioners and as such according to the petitioners the said order is not proper being in violation of the principles of natural justice.

3. Mr. Prashant Pallav, learned G.A-IV appearing for the State of Jharkhand is fair enough to submit by going through the order impugned that as on its face it

appears that the contention raised by the petitioner pertaining to violation of principles of natural justice is found available.

4. This Court after having heard learned counsel for the parties and on appreciation of the rival submissions and after going across the impugned order, has found that the proportionate liability has been fixed upon each petitioners with a direction to deposit equal share of the amount against excessive withdrawal of the money from the Government Exchequer.

It is not in dispute that while performing a work being sponsored by the Government, the executing personnel are supposed to perform their duties with utmost fairness and transparency but equally it is also important that if intent of irregularity has been found, the concerned authority should conduct enquiry with respect to alleged irregularity and if the irregularity is found to be committed an opportunity of hearing is required to be provided to the concerned so that they may be able to put-forth their defence as also deny their liability depending upon the assignment of their duty.

As would appear from the impugned order that the irregularity has been committed by withdrawal of the excess money but while fixing the proportionate liability, no reference of enquiry or reference of show cause notice said to have issued to the petitioners finds mention.

5. It is settled position of law that if the liability is being casted upon them, issuing show cause notice is necessary by the said authorities otherwise it will be held to be in violation of cardinal principles of natural justice, but on the face of the order it is evident that no enquiry or show cause notice has been issued to the petitioners rather straightway direction has been passed by the concerned Block Development Officer, Bishrampur directing each petitioner holding them liable for excess withdrawal from the treasury and in consequence thereof direction has been issued upon them to deposit the amount since the matter pertain to the office of the Lokayukta.

6. In view thereof the order dated 31.05.2019 is held to be not sustainable, accordingly it is quashed.

It is also settled that on technicality, no advantage is to be given to anyone and therefore, the matter is being remitted to the Block Development Officer, Bishrampur to issue show cause notice to the individual petitioner by specifying the nature of irregularity committed within two weeks from the date of receipt of copy of the order.

The petitioners shall submit their reply to the show cause within three weeks from the date of show cause notice.

The concerned authority shall pass order within four weeks from the date of such reply.

Accordingly, the writ petition stands disposed of.

It is made clear that after filing reply by the petitioners, the concerned authority will have liberty to pass order in accordance with law.

This order will not come in the way of adjudication of the matter which is lying pending before the Lokayukta on its own merit.