

(2009) 07 PAT CK 0117
In the Patna High Court
Case No : CWJC No. 12149 of 2008

M/s Raju Tent House

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 25-07-2009

Acts Referred:

Citation : (2009) 4 PLJR 530

Hon'ble Judges : Navaniti Pd. Singh, J

Bench : Single Bench

Judgement

Navaniti Pd. Singh, J.—The distressing facts have been noted in detail in order dated 6.3.2009 of this Court. To recapitulate briefly, for elections, services of private contractors are requisitioned to supply tents etc. For this, certain advances are made by Director, Panchayati Raj to the district administration which included District Magistrate, Arval who is the District Election Officer as well. After elections, on bills being submitted, final figures are worked out and sent to the Director, Panchayati Raj for release of funds so that payments to contractors are made. Corruptions start thereafter. Contractors are rarely paid. In this case, DM, Arval, under his own signature, sent a detailed requisition of over Rs. 1 crore towards such bills to be paid. It included the payment of about Rs. 22 lacs to the petitioner. That was DM's own stand. Petitioner not having received the payment, he moved this Court. Before this Court, DM takes a plea that the petitioner has not submitted all bills. He has submitted the bills only in February, 2009 which are yet to be scrutinised. It was then asked of the DM as to on what basis more than a year back, he had sent figures and claimed amounts from the Director, Panchayati Raj. The answer was they were tentative figures. What was the basis was evaded. Then came the counter affidavit of Director, Panchayati Raj that disclosed that the advance that was sent to the DM, Arval even before the elections, DM, Arval had failed to furnish a single utilisation certificate because of which the requisition of Rs. 1 crore from the DM, no further money could be sent. It is this predicament in which DM being caught, is now trying to avoid payment to the petitioner because he cannot get the money from the Director,

Panchayati Raj without utilisation certificates. He has admitted liability but is unable to account for the money received by him. This, on the face of it, was not only mala fide but gross financial irregularity being committed. Huge amount of Government money has been misappropriated at the level of the District Magistrate himself. It is in this view of the matter, Court directed State Cabinet Vigilance to enquire into the matter. They sought time and sufficient time was allowed. The result of the enquiry is on record on basis of affidavit sworn by the Dy S.P.-cum-Enquiry Officer, Vigilance Investigation Bureau, Government of Bihar, Patna. Let that affidavit filed on 22.06.2009 form a part of this order. To say the least that shows total incompetence of an Enquiry Officer. His report is short. He says that the writ petitioner has not been paid his due inspite of money having been received. He says that the DM has sworn a false affidavit before this Court wrongly stating that no bills were submitted before February, 2009. He then comes to the conclusion that it is a mere administrative lapse. Court wonders what was the enquiry for. This much the Court had already found in the proceedings before this Court. What was required to be investigated was why the District Magistrate was not sending utilisation certificates in the first instance. What was the basis for laying claim before the Director, Panchayati Raj with exactitude and then why when bills were already with DM he chose to deny that there were no bills submitted prior to February, 2009? Why the DM sent a demand to the Director, Panchayati Raj after the elections without any verification or document to substantiate the demand? Why did the DM call for money without having proper account for it? We are not dealing with a couple of 100 rupees but we are dealing (sic-with?) a substantial amount of Rs. 1 crore. Has not the DM caused the wrongful loss to the petitioner which could entail criminal charges? With what motive and what purpose? Not one such question has been delved in the enquiry with the State Cabinet Vigilance. So much for professional investigation and enquiry by the State Cabinet Vigilance to root out corruption in this State. In this view of the matter, I am left with no option but to direct the Director General, State Cabinet Vigilance to personally look into the entire matter and get a proper enquiry made and take proper action against erring officials. If need be, initiate criminal investigation in the matter.

2. Let a copy of this order be sent to the Chief Secretary for being brought to the notice of Hon"ble Chief Minister as well. Let a progress report be sent to this Court within three months.