
(2014) 02 JH CK 0015
In the Jharkhand High Court
Case No : W.P. (PIL) No. 7583 of 2011

Upendra Prasad Singh

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 26-02-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 120-B, 406, 419, 420, 467

Citation : (2014) 2 JLJR 126

Hon'ble Judges : R. Banumathi, C.J.; S. Chandrashekhar, J

Bench : Division Bench

Advocate : P.C. Sinha, Advocate for the Appellant; R. Shankar, Advocate for the Respondent

Judgement

1. This PIL is filed for investigation of the alleged misappropriation of public funds allotted since 2008 to 2011 for construction of INDIRA AWAS at Rajdhanwar (Dhanwar) Block, District-Giridih through CBI. The petitioner claims to be the convener of M.A.N.R.E.G.A. Advising Committee, District-Giridih. It is the case of the petitioner that the beneficiaries of INDIRA AWAS at Rajdhanwar (Dhanwar) Block complained to him that they were not provided house under INDIRA AWAS Yojana, although some funds have been released in their names. In this regard, the petitioner is said to have made representation to the Deputy Commissioner, Giridih, through letter dated 31.8.2011 alleging that according to the plan, no house has been constructed although funds have been released in their names. The petitioner again wrote a letter to the Deputy Commissioner, Giridih, on 28.9.2011 alleging that the funds have been embezzled and people are being managed. Some of the residents, namely, Meimun Khatoon, Rubi Khatoon, Aisha Khatoon, Rafidan Khatoon, all residents of Sapamaran, P.S.-Dhanwar, sworn affidavits on 20.8.2011 stating that they have no knowledge of any construction of house in their names.

2. The case of the petitioner is that in three financial years since 2008-09, 2009-10 and 2010-11, total 2700 INDIRA AWAS were to be constructed, but the

same were not constructed even though money has been withdrawn. One F.I.R. being Dhanwar P.S. Case No. 121/2011 dated 26.7.2011 under Sections 406, 419, 420, 467, 471, 120-B IPC was lodged but no proper investigation has been done. The petitioner was on hunger strike and he was informed that the Deputy Commissioner, Giridih, vide letter No. 1749 dated 14.10.2011, has written a letter to the Principal Secretary, Rural Development Department, for proper action. In spite of the same, no action was taken. Hence, referring to a news item published in the Prabhat Khabar and other newspapers dated 8/10.12.2011 reporting that Rs. 2.69 Crores have been illegally withdrawn, the petitioner filed the PIL for investigation of misappropriation of public fund allotted since 2008 to 2011 for construction of INDIRA AWAS at Rajdhanwar (Dhanwar) Block, District-Giridhi.

3. We have heard Mr. P.C. Sinha, learned counsel for the petitioner and Mr. Rajesh Shankar, learned counsel appearing for the respondents.

4. Vide various orders of the Court, respondents filed detailed counter affidavits. INDIRA AWAS Yojana is intended to benefit various households, who are below the poverty line (BPL). Under the guidelines of the Central Government, there is ban on contractors or departmental construction of INDIRA AWAS, the beneficiaries are to make their own arrangements for construction material, engage skilled workmen and also contribute family labour and the beneficiaries have complete freedom and the responsibility for proper construction of house will be on the beneficiaries themselves. The programme will be implemented through Zila Parishad/D.R.D.As. and the houses will be constructed by the beneficiaries themselves. The target for the district is fixed by Rural Development Department. D.R.D.A. fixes the target for respective Blocks/Panchayat. Gram Sabha is responsible for selection of beneficiaries and the B.D.O. is responsible for disbursal of the amount for the unit. Administrative Officers at the District, Sub-Division and Block levels are required to monitor the Scheme. Gram Panchayat/Gram Sabha at Panchayat level, District Rural Development Agencies/ Zila Parishad on the basis of allocations made and target fixed decide the number of houses to be constructed Panchayat-wise.

5. By the various orders of the Court, enquiry was conducted, and the status report called for. In the counter-affidavit and supplementary counter affidavit, status report of the INDIRA AWAS YOJANA in Rajdhanwar (Dhanwar) Block for the financial years 2008-09, 2009-10 and 2010-11 are stated as follows:--

It is stated that altogether five criminal cases, being Dhanwar P.S. Case No. 121/11 dated 26.7.2011 (State v. Girish Kumar Verma & Ors.), Dhanwar P.S. Case No. 14/12 dated 21.1.2012 (State v. Mahendra Rai & Ors.), Dhanwar P.S. Case No. 190/12 dated 21.7.2012 (State v. Krishan Dev Rajak & Ors.), Dhanwar P.S. Case No. 377/12 dated 31.12.2012 (State v. Sukhdeo Rai & Ors.) and Dhanwar P.S. Case No. 74/13 dated 14.3.2013 (State v. Mohan Lal Marandi) have been lodged. It is stated that the investigation in all cases are under progress. In the supplementary counter-affidavit filed on 25.2.2014, it is stated

that steps have been taken by the Superintendent of Police, Giridih, to ensure that the investigation of the aforesaid Criminal Cases is done with all sincerity. Reference is also made to a letter from the Superintendent of Police addressed to the Inspector of Police of Jamua Circle, Giridih, dated 22.2.2014.

6. It is stated that 123 persons were wrongly given the benefits and notices were issued to those persons for recovery of the amount. As against 44 persons, Certificate Proceedings have been initiated for realization of the amount and from two persons, amount has already been recovered.

7. Five criminal cases have been registered and investigation is under progress. Certificate Proceedings are also initiated against 44 persons for realization of the amount. It is further stated that steps are being taken for realization of the amount from others who were wrongly given the benefit and from those who were given double benefits.

8. It is also stated that a departmental enquiry, vide Departmental Case No. 18/2012, has been initiated against the then B.D.O., Dhanbad, namely Shri Mohanlal Marandi, in which one Shri Ashok Kumar Sinha, Retd. I.A.S. Officer, has been appointed as Presiding Officer. It is further submitted that the Deputy Commissioner, Giridih, has himself taken steps for making necessary enquiry in the matter and he has constituted team of officers for the said purpose. However, we find that the status of the Scheme executed by the respondents indicates that for the year 2008-09 though total number of approved schemes was 661, out of which 253 remained incomplete. For the year 2009-10, out of total 625 approved schemes, 240 remained incomplete. Similarly, for the year 2010-11, 779 out of 1151 approved schemes remained incomplete. The respondents have not disclosed the reason why those schemes remained incomplete and whether any step has been taken by the respondents for completing those incomplete schemes. Accordingly, we direct the Deputy Commissioner, who is respondent No. 3 in the present proceeding, to take necessary steps, within the framework of the scheme, for completing those incomplete schemes.

9. Having regard to the status report filed by the respondents, this Public Interest Litigation is disposed of with the direction to the 1st respondent to expedite the investigation in the criminal cases and complete the investigation and file final report at an early date, preferably within eight months. The 1st respondent is also directed to expedite the departmental proceedings initiated against the officials and complete it at an early date. So far as the persons, who were wrongly given the benefit and who were given double benefits and pending certificate proceedings are concerned, we direct the Deputy Commissioner, who is respondent No. 3 in the present proceeding, to take necessary steps to recover the amount in accordance with law. We also direct the 3rd respondent, the Deputy Commissioner, to take necessary steps within the framework of the Scheme for completing the incomplete houses under the Scheme.