IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 3393 of 2011

Lalan Bihari Sharan, S/o Sri Krishna Prasad, resident of Doranda Fisharies Colony, P.O. & P.S. Doranda, District-Ranchi.

....**Petitioner**

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Secretary, Department of Animal and Fisharies Resources, Govt. of Bihar, Patna.
3. The Special Secretary, Department of Animal and Fisharies Resources, Govt. of Bihar, Patna.
4. The Director of Fisharies, Directorate of Fisharies, Govt. of Bihar, Patna.
5. The Joint Fisharies Director, (HQRS), Govt. of Bihar, Old Secretariat, Patna.
6. The State of Jharkhand, through the Chief Secretary Govt. of Jharkhand, Project Bhawan, Dhurwa, Ranchi.
7. The Secretary to Govt. Department of Animal Husbandary and Fisharies, Govt. of Jharkhand, Nepal House, Ranchi.
8. The Director of Fisharies, Directorate of Fisharies Govt. of Jharkhand, Doranda, Ranchi. ....**Respondents**

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner(s) : Mr. Umesh Kr. Choubey, Advocate
For the Respondent(s) : Mr. Binit Chandra, A.C. to G.A. (Bihar)
Mr. Manish Mishra, G.P.-V
Ms. Varsha Ramsisaria, A.C. to G.P.-V

C.A.V. ON: 30.01.2026 **PRONOUNCED ON: 10/04/2026**

1. Heard learned counsels for the parties.

2. The instant writ application has been preferred by the petitioner praying therein for quashing of the order of deduction/deposit of amount amounting to Rs.1,48,000/- from the petitioner as contained in Memo No. 352 dated 01.03.2011 (Annexure-7); issued by respondent No.3. The petitioner has also assailed the letter No. 20 dated 11.03.2011 (Annexure-8), issued by respondent No.7 and also Memo No.2334 dated 20.06.2011 (Annexure-10), issued by the 8th respondent.

3. Briefly stated, the petitioner joined as Junior Engineer, Department of Fisheries, Govt. of Bihar on 16.10.1975. On promotion, he was posted as Assistant Engineer in the said department at Motihari. He was entrusted the work of *"Machua House"* construction for fisherman welfare under National Fisherman Welfare Scheme in the village Belvanwa in the District of East Champaran. The estimate for construction of per unit was fixed in 1988 at Rs. 11,000/-.

4. The case of the petitioner is that the estimate of Rs.11,000/- per unit was fixed in the year 1988, but after nine years i.e. in the year 1996-97, the cost of building material and labour rose higher; as such, the petitioner requested the Joint Director, Fisheries (Respondent No.5), several times requesting him to revise the estimate to the effect that cost of per unit of house comes to Rs. 26,734/- and as such, requested to give necessary order to start the work.

5. After several representations, one of the letters dated 20.01.1997 of this petitioner was responded by the Joint Director, Fisheries (Respondent No.5) through his letter No.88 dated 22.01.1997 (Annexure-2), which directed the petitioner to start work as per the revised estimate.

6. In compliance to the aforesaid letter of the Respondent No.5, the petitioner completed work as entrusted to him and also vide his letter No.1 dated 16.01.1999 submitted all the relevant measurement book and vouchers to the Joint Director, Fisheries (Respondent No.5) for necessary adjustment against the advance of Rs.2,58,000/- given to the petitioner for the said work.

7. Thereafter, the erstwhile State of Bihar was bifurcated and the petitioner was allocated State of Jharkhand. All of a sudden, after 13 years, the 4th respondent through his letter dated 04.10.2010 issued a letter to the petitioner that since without approval of competent authority the work was done at a higher rate; as such, the voucher and accounts of revised rate of estimate is not acceptable and was further directed to refund the total amount of Rs.2,58,000/-.

8. Thereafter, vide letter dated 15.12.2010, the petitioner explained the 4th respondent that he has done the work in compliance of the order of the Joint Director (Respondent No.5), as contained in Letter No.88 dated 22.01.1997 and all documents of measurement books and vouchers were submitted by the petitioner for adjustment of advance are kept available in the Office of Directorate Fisheries, Government of Bihar and as such, the question of refund of advance amount is not justified.

9. However, without appreciating the said fact and also admitting that the work was done by the petitioner, the Special Secretary, Department of Animal Husbandry and Fisheries, Govt. of Bihar wrote a letter to the Secretary, Department of Animal Husbandry and Fisheries, Government of Jharkhand, Ranchi indicating therein that after calculating the work done by the petitioner at the old rate; the balance amount of Rs.1,48,000/- be recovered and deposited to the State of Bihar.

10. Pursuant to the aforesaid letter, Annexure-8 was issued by the Secretary of the Department to the Director of the Department to the effect that Rs.1,48,000/- be deducted from the account of the petitioner, copy of which was also issued to the petitioner. Thereafter, the petitioner wrote a detailed representation to the Director of the Department to recall/review the order.

11. Relying upon the aforesaid fact, the petitioner contended that on the one hand, the original estimate was fixed in the year 1988 for the construction of "Machua House" for Fisherman under National Fisherman Welfare Scheme and when the petitioner was entrusted with the duties for the said construction, cost of building material and labour rose very high therefore, he requested for enhancement of the allocated amount per unit and on the other hand, the Joint Director vide letter dated 22.01.1997 directed the petitioner to start the work as per the revised estimate; as such, after a gap of almost nine years the issue cannot be raised and further the petitioner was only Assistant Engineer and he worked as per the sanction given by the Joint Director.

12. The stand of the State of Bihar (Respondent Nos.1 to 5) is that the National Fisherman Welfare Scheme was sponsored by Central Government and under this component eligible fisherman in island and marine sectors are provided with the basic civic amenities like housing drinking water and common place for recreation. Under the scheme, Government of Bihar was directed to construct 100 *"Machua Awas"* at Belwanna village in the district of Motihari during 1988 at the unit cost of Rs.11,000/- construction work and thereafter, a sum of Rs.2,58,000/- was left for construction of remaining 23 houses at the rate of Rs.11,000/- per unit.

The petitioner received advance unconditionally and he was never directed by the Department to receive the unit cost of "Machua Awas" to enhance the price.

13. The further stand of the State of Bihar is that no officer of the Fisheries Directorate is competent enough to issue the so-called sanction order without the approval of competent authority of State or Central Government and the entire action of enhancement was done in collusion with the petitioner and the then Joint Director fisheries; as such, the impugned order issued by the State of Bihar (Annexure-7) is legally valid and should not be interfered with.

14. The stand of the State of Jharkhand is that the issue pertains only with the State of Bihar and the State of Jharkhand, only, pursuant to the letter dated 01.03.2011, have issued letters requesting the petitioner to deposit the arrear advance in question i.e., Rs.1,48,000/-.

15. Having regard to the aforesaid facts and circumstances of the case, following issues emerges for consideration:

(i) *Whether the action of the petitioner after getting sanction from the then Joint Director to construct the house at revised rate is sustainable in the eyes of law?*

(ii) *If the Joint Director was not competent enough to grant sanction, then whether the State of Bihar could have taken the action of recovery of Rs.1,48,000/- after a lapse of nine years?*

(iii) *Whether the cost of construction might have rose in a gap of nine years with regard to construction of unit?*

16. Heard learned counsel for the parties and perused the documents available on record.

17. So far as the 1st issue is concerned with regard to taking sanction from Joint Director; the record indicates that the petitioner has filed several representations and the then Joint Director in order to complete the scheme, had allowed him to construct as per the revised estimate sent by the petitioner (Annexure-2).

18. So far as the stand of the respondent that the then Joint Director was not competent; there is no document to suggest that the petitioner was ever informed about the fact about taking sanction from the competent authority and/or who is the competent authority to enhance the cost; as such, this Court feels that the petitioner in order to complete the Scheme of the Central Government with regard to the construction of house/unit for fishermen was justified and he being an Assistant Engineer has rightly sent representation to his next higher authority who was the Joint Director and the Joint Director himself instructed him to construct the balance work and pursuant thereto, the petitioner completed the work and sent the entire vouchers measurement book etc. to the office of Joint Director; accordingly, this Court holds that the petitioner has not committed any offence.

19. Even otherwise, it is not the case that the petitioner has defalcated the amount; rather it is a case that the petitioner has constructed the work as per the self-revised rate but in result the buildings were constructed.

20. So far as the 2nd issue is concerned; as stated in the preceding paragraph; there was no information or indication in any of the document to indicate that the petitioner was aware of the competent authority and it is only an afterthought that this ground has been taken by the State of Bihar in the factual background of the case that after completion of the entire work in the year 1999 whereby the entire measurement book has been submitted by the petitioner along with vouchers, the concerned respondent i.e. respondent-State of Bihar, sat over the matter for almost 11 years and for the first time they wrote a letter to the petitioner on 4th October, 2010 that he is directed to refund the amount of Rs.2,58,000/- and subsequently, vide letter dated 1st March, 2011, Annexure-7 was issued to recover Rs.1,48,000/- from the petitioner.

21. Thus, this Court is having no hesitation in holding that the respondent-State of Bihar, who sat over the matter and thereafter, raised a ground after almost a decade that the Joint Director was not competent to sanction the amount; is not justified and the action is not sustainable in the eye of law.

22. So far as 3rd issue is concerned; admittedly, the rate which was fixed was of the year 1988 and entire construction work was of the period 1998-99, therefore, certainly the cost of building materials must have been increased. Thus, the entire questions are decided against the respondents.

23. Even otherwise, as stated hereinabove, there is no justification on behalf of the respondent-State of Bihar to recur an issue which was completed in the year 1999 itself, when the petitioner submitted the entire measurement book and vouchers and after more than a decade they raised the issue firstly, by writing the petitioner to refund the entire amount of Rs.2,58,000/- and subsequently, by asking the petitioner to refund

Rs.1,48,000/-.

24. Accordingly, the action of the State of Bihar and also of the State of Jharkhand, which acted upon the instruction of the State of Bihar, is *non est* in the eyes of law and has no legs to stand; as such, the instant writ application, is hereby, allowed and accordingly, the Memo No. 352 dated 01.03.2011 (Annexure-7), Letter No. 20 dated 11.03.2011 (Annexure-8) and Memo No.2334 dated 20.06.2011 (Annexure-10); are hereby, quashed and set aside. The recovery, if any, made from the petitioner, shall be refunded to the petitioner forthwith.

25. Pending I.A., if any, also stands closed.

(Deepak Roshan, J.)

APRIL 10th, 2026
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18.04.2026