

Award by the Ombudsman MGNREGA in accordance with Instructions on Ombudsman para 13 of instructions (under section 27 of MGNREGA Act, 2005) District Kangra, Vikas Bhawan, DRDA, Dharamshala (H. P.)

Award No. MGNREGA/2010/10-745

Dated 15<sup>th</sup> February, 2011

Sh. Prem Singh S/o Barfi Ram Chaudhari Vill. Tangroti Khas, P.O. Yolcant, Teh. Dharamshala, District Kangra, Himachal Pradesh.

Complainant/ Applicant

Versus

1. The Pradhan Sh. Nand Lal, Gram Panchayat Tangroti Khas, Development Block, Dharamshala, Distt. Kangra, H.P.
2. Smt. Shayam Lata, ward Member Gram Panchayat Tangroti Khas, ward no.-3 Development Block, Dharamshala, Distt. Kangra, H.P.
3. The Secretary, Gram Panchayat Tangroti Khas, Development Block, Dharamshala, Distt. Kangra, H.P.

Opposite Party/ Defendant

## **1 Facts:-**

In brief the facts of the case are that a complaint dated 18-09-2010 was presented by the applicant personally. The main grounds of the complaint are that a complaint dated 18-05-2010 regarding use of substandard material for the construction of path in ward no.3 of Gram Panchayat Tangroti Khas Teh Dharamshala **from Prothal Nala/cow shed to the house of Prem Singh** was submitted to the BDO Office Dharamshala for through investigation but nothing has been heard from the office of BDO Dharamshala, though a period of more than four months have elapsed. The applicant has prayed that the matter may be got investigated and action erring persons may be taken in the interest of justice. The contents of the complaint were examined and copy of the complaint was sent to BDO-cum-PO (MGNREGA) Dev. Block Dharamshala vide Ombudsman 135 dated 18-09-2010 with the direction to conduct prelim fact finding inquiry and send report accordingly. The report of BDO-cum-PO Dharamshala was received on 18-10-2010 which was examined at length and it was decided to initiate further proceedings at the level of Ombudsman (MGNREGA) and accordingly notices of presence were issued to the complainant, Panchayat functionaries and BDO-cum-PO (MGNREGA), Dharamshala to attend proceedings on 30-10-2010 at 11:00 A.M.

## **2. Statements of Parties**

On 30-10-2010, the statement of Sh. Prem Singh (P-I) complainant/applicant was recorded who has stated that the Panchayat has **constructed path from Prothal Nala/cow shed to the house of Prem Singh** under MGNREGA. The path in question just after its construction has been damaged and the uprooted construction material has scattered in my agricultural land which has also damaged the agricultural land. Has requested that immediate repair of the newly constructed damaged path may be carried out so that his agricultural land may be saved from further damage. **Smt. Shayam Lata, (D-I) Member Panchayat ward no. 3** has stated that the work of this path has been carried out in her supervision. The construction work of the path was carried out properly but it is correct that the path has damaged just after its completion because of rain and the damaged path has not yet been repaired. **Sh. Nanad Lal, (D-II) Pradhan Gram Panchayat** has stated that the construction work of **path from Prothal Nala/cow shed to the house of Prem Singh** has been carried out under the supervision of Smt.

Shayam Lata Ward member-3. Rs. 1.25 Lacs. has been sanctioned for this work. It's length is 125 to 130 mtr. This path has been damaged 30 to 35 mtr. approximately just after its completion. The Pradhan has admitted that the uprooted construction material of the path is falling in the agricultural land of the applicant. **Sh Nek Raj Up Pradhan (D-III)** has stated that the path in question has been damaged 30 to 35 mtr. and in case its repair is not carried out immediately it will further damage, has further stated that the reason for damage could be lack of proper curing. **Sh. Vir Singh, (D-IV) ward member-2** has stated that path constructed under MGNREGA has been damaged 25 to 30 mtr. just after its completion and till today no repair work has been carried out. **Sh. Rajesh Kumar, (D-V) ward member -4** has stated that the path has been damaged 20 to 30 mtr. and the main cause of uprooting the construction material from the surface of the path may be settling down of the soil. **Sh. Onkar Datt (D-VI) Technical Assistant** has stated that he has inspected the construction work of the path 3 to 4 times before assessment. It is correct that 25 to 30 mtr. path has been damaged reason for which could be settling down of earth. Has further stated that when he assessed the work, the work was not damaged. **Sh. Mansa Ram (D-VII) ward panch-5** has stated that 25 to 30 mtr. path has been damaged, the reason for which could be non use of proper ratio construction material. **Sh. Surinder Singh, (D-VIII) Assistant Secretary** has stated that no stock entry has been made of the construction material by the then Panchayat Secretary and even record of quotation required for purchase of material is not available. **Sh. Raj Bahadur, (D-IX) the then Secretary** has stated that the payment of mustroll no. 00763, 00657, 00764 and 00656 relating to MGNREGA workers wages has been made by him and the Pradhan. Similarly, payment of voucher no. 264, 281, 282 and 289 has also been made by me and Pradhan after assessment. No quotation for the material purchased for construction work has been obtained and no entry of the material so purchased has been made in the stock register Has further stated that the construction material has been purchased by the then up Pradhan and Ward Member ward-3 Smt. Shayam Lata.

### **3. Issues for consideration**

On the basis of statements of the parties, report of BDO-cum-PO (MGNREGA) Dharamshala and technical report submitted by Assistant Engineer DRDA Kangra, the following issues are framed :-

**Issue-** whether construction of path from Parothal Nala/cow shed to the house of Sh. Prem Singh has been damaged and the construction material so uprooted from the surface of path has further been scattered resulting the agricultural land of the complainant/applicant has been damaged ?

Before having issue-wise findings discussed, it is of utmost importance to discuss the fact finding inquiry report of the BDO-cum-PO (MGNREGA) Dharamshala. The BDO-cum-PO MGNREGA, Dharamshala vide letter no. DBD-6016 dated 14-10-2010 has made clear that the top concrete layer in half of the path has been damaged and this damaged seems to have occurred after 3-4 months of completion of work. The report further states that the damage has been caused because either improper after care of path or use of muddy bajari from the khad which has led to damage of path. The Assistant Engineer Dev. DRDA Dharamshala has stated that the construction work of the path has been done as per PWD Specification. There is little about damage to the top of the layer of cement due to instant rain during the laying of concrete.

### **4. Issue-wise Findings**

On in-depth examination of complaint, statements of the parties, the fact finding report of the BDO-cum-PO (MGNREGA) Dharamshala, and Technical report of Assistant Engineer Dev. Dharamshala issue wise findings with reasons are observed and concluded as under:-

**Issue-** On the basis of statement of Smt. Shayam Lata member ward no.3, under whose supervision this work under MGNREGA has been executed, further statements of Sh. Nand Lal Pradhan, who has stated that 30-35 mtr. path has been damaged and the uprooted construction material from the surface of the path has scattered in the agricultural land of the complainant. This fact of damaging of path has also been conformed by Sh. Nek Raj Up Pradhan, Sh. Vir Singh ward member -2, Sh. Rajesh Kumar Ward no.4, Sh. Onkar Datt Technical Assistant, Sh. Mansa Ram Ward No.5. The BDO-cum-PO MGNREGA Dharamshala and A.E. Dev. DRDA have also reported that the above path has been damaged. Thus it has been found beyond doubt that the work construction of **path from Prothal Nala/cow shed to the house of Prem Singh** has been damaged just after construction. The total path damaged is about 30- 35 Meters. It has also been found that the uprooted construction material from the surface of the path has scattered in the agricultural land of the complainant/ applicant which has damaged the land to some extent. It has also been found that the main cause for damaging the path just after construction is improper after care of path and use of muddy bajri from the khad from where the bajri was collected. As per version of A.E. Dev. DRDA the cause of damage to the top of layer of cement is due to instant rain during the laying of concrete. Though there is small contradiction in the report of BDO-cum-PO MGNREGA and A.E. Dev. yet fact is that the path 30-35 mtr. has been damaged just after its completion, which is certainly misuse of funds by the Panchayat functionaries, the then Pradhan and the then ward Panch under whose supervision the work of construction of path was executed. The responsibility equally lies on the Technical Assistant also who has also failed to ensure proper execution of work. Thus the allegation as alleged by the applicant/ complainant stands proved and Issue framed above is decided in favour of the complainant and against the Panchayat functionaries. It has also been found that the Panchayat has not maintained any stock register for the construction material procured by the Panchayat for the execution of MGNREGA works which is also a serious material accounting irregularity. No quotation has been called for before procuring the construction material. The assessment carried out by the technical Assistant is Rs. 1,27,993/- where as reassessment carried out by the Assistant Engineer is Rs. 1,27,323/-. It has also been found that there has been lack of proper monitoring of the work by the Technical staff and other monitoring agencies. It has also been found that the social audit of the executed MGNREGA work has not been done as is required under the MGNREGA Guidelines.

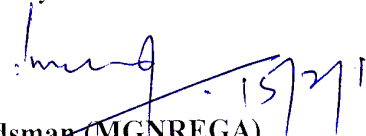
#### 5. Conclusion

In view of foregoing reasons and findings, the allegations as alleged in the present complaint stands proved.

Copy of the award be sent to the complainant, Sh. Nanad Lal, Pradhan. Gram Panchayat, Tangroti Khas, Smt Shayam Lata Ward member ward No 3, the Secretary, Gram Panchayat Tang Narwan, BDO-cum-PO (MGNREGA), Dharamshala and the Deputy Commissioner-cum- District Coordinator (MGNREGA) for information and further necessary action.

Copy of the award be also sent to the Secretary (Rural Development) to the Government of Himachal Pradesh for information and necessary action.

Announced

  
Ombudsman (MGNREGA)  
Vikas Bhawan, DRDA,  
District Kangra,  
Dharamsala (H. P.)

