

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, Dharamsala (H. P.)

Award No. MGNREGA/2010/8-692

Dated:

09-02- 2011

Sh. Amar Singh Rana S/o Sh. Rattan Chand Village Baleda P.O. Salihar Tehsil Khundian District Kangra, Himachal Pradesh.

Complainant/ Applicant

Versus

1. Pradhan, Gram Panchayat Salihar P.O. Salihar (Dev. Block Dehra) Tehsil Dehra, Distt. Kangra, H.P.
2. The Block Development Officer-Cum-P.O. (MGNREGA) Dev. Block Dehra Distt. Kangra (H.P.)

Respondent/ Defendant

1 Facts:-

This complaint has been filed by Sh. Amar Singh Rana R/o Village Balehda P.O. Salihar Tehsil Khundian District Kangra (H.P.). The complaint is related to discrepancies / deficiencies in the execution of MGNREGA works in Gram Panchayat Salihar Dev. Block Dehra. The applicant/complainant above vide his application dated: 21-10-2010 which was registered in this office on 25-10-2010 has mentioned in his complaint that he sought information regarding construction of link road from hand pump to temple Balehda under RTI from the office of BDO-Cum-PO (MGNREGA), Dev. Block Dehra. According to information provided by the office of BDO, the above work has been shown completed in papers only but on the spot there exists no such work. The present applicant/ complainant has requested the BDO on 24-08-2010 to visit the spot and enquire into the facts whether the above work which has been shown completed in the papers only or has been executed on the spot. But till the date of this application i.e. 21-10-2010 no action has been taken by the concerned BDO. Thus the applicant was left with no other alternative but to approach the office of Ombudsman (MGNREGA) to direct the concerned implementing MGNREGA agency to enquire into the facts and provide justice to the applicant at the earliest. Thus this complaint. The complaint in question was sent to BDO-Cum-PO (MGNREGA) Dev. Block Dehra vide Ombudsman No. 275 dated: 28-10-2010 for fact finding prelim enquiry and for sending report within 07 days (excluding holidays) from the receipt of this letter. The report of the BDO was received on 24-11-2010 and after examination of the report it was decided to initiate further proceedings to find out the factual position in the matter and accordingly notices of presence were issued to the parties and the next date of proceeding was fixed on 20-12-2010.

2. Statements of Parties

On 20-12-2010 the statement of Sh. Amar Singh Rana, Applicant / complainant above was recorded who has stated that he presented a complaint before the Ombudsman (MGNREGA) Kangra mentioning that as per information received under RTI, Act-2005, the construction of “**link road from hand pump to temple Balehda**” has been shown completed in papers but on the spot this work is not visible. Has further stated that the labour engaged in the mustroll for the above work for which Rs.50,400/- has been spent is in paper only, infact no work has been carried out on the ground. This information was conveyed to the BDO-Cum-PO (MGNREGA), Dev.

Block Dehra on 24-08-2010 who was also requested to visit the spot and enquire into the facts whether the alleged work has been completed in papers only or otherwise, but nothing in this regard was done by the department and it was because of this reason that he has to approach the Ombudsman (MGNREGA) for providing justice in the matter. Has further stated that after the complaint was lodged with the Ombudsman (MGNREGA), the BDO along with Junior Engineer visited the spot and informed me about the ground realities. Has further stated that the path about which he has prayed may be constructed so that people of the area may use the same. **Sh. Jamaldeen S/o Jaan Mohammad, Pradhan G.P. Salihar respondent (D-I)** has stated that he has complete knowledge about the complaint presented before the Ombudsman (MGNREGA) Kangra by the applicant/complainant above and about which the BDO-Cum-PO (MGNREGA), Dehra has held enquiry on 03-11-2010. Has further stated that the work about which the complainant has complaint is not the same work as has been alleged by him. Infact the complainant desired separate path for his house. Further stated that this work has been passed by the Gram Sabha in its meeting and as soon as its approval is received by the Gram Panchayat from the competent authority and after receipt of funds and mustrolls the work can be taken for execution. **Sh. Gurmehar Singh, Junior Engineer, Dev. Block Dehra (D-II)** has stated that he was present on 03-11-2010 when the enquiry relating to the complaint of the applicant above was conducted by the BDO-Cum-PO (MGNREGA). Infact the applicant want that the construction work of the path may be further extended from hand pump to society building. This being a new work has been approved by the Gram Sabha and can be taken up after receipt of its approval from competent authority. **Sh. Vijay Kumar, Technical Assistant (D-III)** has stated that the work viz C/o Link road from hand pump to temple Balehda is the same work which has been sanctioned by the competent authority. The assessment of this work has been carried out by him as Rs. 52,310/- and the same has been entered in M.B. No. 47857 from page 15 to 18. Rs. 50,263/- has been sanctioned for this work. **Smt. Mahindra Devi, Ward Panch-5 Balehda (D-IV)** has stated that being ward panch she has supervised the work viz c/o link road from hand pump to temple Balehda and attendance in the mustroll have been marked and verified by her in the capacity of ward panch. Has further stated that the construction work of the link road has been carried out katcha and because of rains, during rainy season there has been erosion of soils from the top of the road resulting some damage has occurred. The path which the applicant wants to construct is a separate work which has been approved by the Gram Sabha and can be taken up for execution as soon as the approval of the competent authority is received. **Sh. Hoshiyar Singh S/o Sh. Sat Pal Singh, Panchyat Sachiv (D-V)** has stated that the work C/o link road from hand pump to temple Balehda was sanctioned in the year 2007-08 for Rs. 50,263/-. This work has been completed and 08 mustrolls have been used for this work and payment of wages has also been made to the MGNREGA workers. Has further stated that the path which the complainant wants to construct viz C/o path hand pump to society building is a separate work which has been approved by the Gram Sabha and can be taken up for execution as soon as necessary sanction, mustrolls and funds are received from the competent authority. Has further stated that he has seen the bills for the purchase of construction material and the material purchased has not been entered in the stock register.

3. Issues for consideration

On the basis of statement of complainant, respondents (D-I to D-V), documents placed on record and fact finding report of BDO-Cum-PO (MGNREGA), Dehra which is placed on record, the following issues are hereby framed :-

Issue-I:- Whether construction of link road from hand pump to temple Balehda has not been constructed physically as alleged by the complainant and the amount sanctioned for the work has been spent in papers only ?

Issue-II:- Whether the complainant has any other interest on the basis of which the complainant has complained about the execution of above work under MGNREGA ?

4. **Issue-wise Findings**

Before issue wise findings with reasons are concluded, it is of utmost importance to discuss the prelim fact finding report submitted by BDO after conducting on the spot enquiry on 03-11-2010 and 20-11-2010. In brief the report says that the work c/o link road from hand pump to temple Balehda was sanctioned during the year 2007-08, provision for this work was kept for Rs. 65,000/- in the shelf. Rs. 50,263/- has been spent and the work has been assessed for Rs. 52,310/- . The work done is katcha and is executed satisfactorily as per the estimate. The above work does not leads to the house of the complainant and therefore, does not serve his purpose. The total length of link road is 2 to 3 kilometre and hard rocks of sappad are pitched on the road, manually it is not possible for Gram Panchayat to take up this work as most of the work can be done with the help of blasting and it will cost around 50 to 60 lacs to complete this work. The report further says that keeping in view above circumstances the complaint of the complainant is not based on logic.

On in-depth examination of contents of complaint, the statements of respondents (D-I and D-V), Photostat copies of the documents placed on record and the prelim fact findings report of the BDO-cum-PO MGNREGA, Dehra, issue-wise findings / conclusions with reasons are drawn and discussed as under:-

Issue-I :- On the basis of record placed on the complaint case file, especially entries made in the Measurement Book No 47857 from pages 15 to 18 as deposed by the Technical Assistant in his statement the work construction of link Road Hand pump to Shiv Mandir Balehda has been proposed in the shelf for Rs 65,000/-. The work was started on 16-7-2007 and completed on in 2/2008. The work has been assessed for Rs. 52,310/- and expenditure incurred is Rs. 50,263/-. Out of total expenditure viz Rs. 50,263/-, the material component and labour component is Rs.12,877/- and Rs. 37,910/- respectively. This fact has also been further strengthened by the BDO-Cum-PO (MGNREGA), Dev. Block Dehra who has reported in fact finding enquiry after carrying out inspection of the above work that the work has been executed in the year 2007-08 and total expenditure incurred on this work comes to the tune of Rs. 50,263/- and assessed for Rs. 52,310/-. The work has been executed as katcha and has been found satisfactorily done. Therefore, on the basis of facts and circumstances it is found that the allegation alleged by the complainant in his complaint are not based on logic and facts, the fact is that the sanctioned above work has been executed under MGNREGA and the allegation as alleged by the complainant regarding not execution of work on the spot but only in papers stands rejected being not waste on the logic and thus **Issue –I** is decided against the complainant.

Issue-II: - On the basis of statements recorded of the parties and prelim fact finding report submitted by BDO-Cum-PO (MGNREGA), Dev. Block Dehra, it has been found that the complainant infact developed misunderstanding about the execution of sanctioned work viz the construction of “**link road from hand pump to temple Balehda**”. As per facts available on record infact the complainant had desired that a link road may be constructed to his house, which is not possible because of land dispute. Moreover, the land on which the complainant wants to construct path/ link road is completely covered with hard rocks of sappad which can only be removed by carrying out blasting and the expenditure may involve Rs. 50.00 to 60.00 lacs as per BDO report for which Gram Panchayat may not be in a position to execute the work

been of technical nature. As per facts available the Panchayat has placed the demand of the Complainant in the shelf of works under MGNREGA which can only be executed if shelf is approved by the competent authority. It has been found that the complainant had desired that the Panchayat should also constructed a link road which may lead to his residents as well as to other houses located in the area.

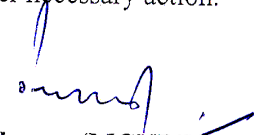
5. **Conclusion**

In view of foregoing reasons and findings, the allegations alleged in the present complaint i.e. issue no. I has not been proved. As far as Issue no. II is concerned it is proved to some extent that the complainant had personal interest for the construction of path/link road to his house and other houses situated in the area.

Copy of the award be sent to the complainant Sh. Amar Singh Rana, Pradhan & Panchayat Secretary, Gram Panchayat Salihar, BDO-Cum-PO (MGNREGA), Dehra and Deputy Commissioner-cum-District Programme Coordinator (MGNREGA) Kangra at Dharamshala for information and further necessary action.

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

Announced


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