

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/2010/4- 575

Dated: 5th January, 2011

Sh. Deepak Thakur and Others Village Chhota Bhangal Gram Panchayat Bada Gran, Tehsil Baijnath, (Dev. Block Baijnath) Distt. Kangra, Himachal Pradesh.

Complainants/ Applicants

Versus

Sh. Bhim Singh Pradhan, Gram Panchayat Bada Gran Teh. Baijnath, (Development Block Baijnath) Distt. Kangra, H.P.

Opposite Party/ Defendants

1 Facts:-

In brief, the facts of the case are that Sh. Deepak Thakur and Others (names as mentioned in the complaint placed on record P-1(D-1)) Village Chhota Bhangal, G.P. Bada Gran, Teshil Baijnath Distt. Kangra, Himachal Pradesh presented a complaint in the office of Ombudsman (MGNREGA) Distt. Kangra which was registered in the office record on 24-08-2010. The main allegations alleged in the complaint are that the wages have not paid to the workers engaged by the Gram Panchayat for the execution of MGNREGA works. The complainants have prayed that the payment of their wages may be arranged immediately and necessary directions be issued to the Gram Panchayat functionaries who are responsible for making the payment.

The complaint being of serious nature regarding non payment of wages was sent to the BDO-cum-PO (MGNREGA) Baijnath vide letter no. Ombudsman/6831 dated: 24-08-2010 for prelim fact finding inquiry and for making immediate arrangements to make the payment to the complainants. The fact finding inquiry report was received from BDO-cum-PO (MGNREGA), Baijnath on 08-10-2010 and after scrutiny of the report it was found that further proceedings in the matter are required to be taken up to provide justice to the complainants as the reasons for delay in the payment of wages has not been explained properly in the report and accordingly notices of presence were issued to the complainant, Pradhan and Panchayat Secretary Gram Panchayat Bada Gran and BDO-Cum -P.O.(MGNREGA) Baijnath to attend proceedings fixed on 22-10-2010 at 11:00 A.M. to substantiate their respective claims in support of their case.

2. Statements of Parties

On the day of proceedings i.e. 22-10-2010, though the notices of presence were sent to Sh. Deepak Thakur, Sh. Saranu Thakur, Sh. Machlu Ram, Smt. Sulxna Devi, Ward Panch , G.P. Bada Gran (Chhota Bhangal) Teshil Baijnath Distt. Kangra, yet in spite of notices of presence the complainants were not present. Since the reasons for non payment of wages were to be found out, therefore, it was essential to

conduct further proceedings to know the causes and circumstances which delay caused in making payment. Accordingly the statement of Sh. Bhim Singh, Pradhan (D-1), Gram Panchayat Bada Gran was recorded. Sh. Bhim Singh has stated that (i) construction of water preservation tank Nalhota (Mustroll No. 2699 and 2702) (ii) construction of main path Bada Gran (Mustroll No. 2700 and 2701) (iii) C/o main path Village Nalhota (Mustroll No. 2704 and 2705) (iv) C/o water preservation tank Bada Gran (Mustroll No. 2698 and 2703) were taken up under MGNREGA programme by the Gram Panchayat. The assessment of these works has been completed and the payment of wages has been made in the month of August 2010. The Pradhan has further stated that the payment of wages could not be made in time because he was not well and admitted in hospital. Has further stated that the construction work taken up by the Up-Pradhan (as alleged in the complaint) has not been sanctioned under MGNREGA and there is no question of payment of wages to the workers, the Up-Pradhan is himself responsible for the payment of wages to the workers as he has engaged the workers at his own risk.

Sh. Swaroop Katoch, Panchayat Secretary (D-2), Gram Panchayat Bada Gran has stated that though the complaint for non payment of wages by the complainants has been made on 23-08-2010 yet the Gram Panchayat has already made the payment of wages through Cheque No. 785396 dated 09-08-2010 (Rs. 8,030/-), Ch. No. 785397 dated: 09-08-2010 (Rs.62,270/-), Ch. No.785398 dated: 09-08-2010 (Rs.99,990/-). The reason for making delayed payment is that the distance of banks from the village (Gram Panchayat) is approximately 25 Km and the Cheque issued could not be credited by the banks timely. It is because of this reason that such a situation has created. He has further stated that Social audit of these works has not yet been carried out by the Gram Sabha.

Sh. Dev Raj, Junior Engineer (D-3), Dev. Block Baijnath who has supervised the execution of MGNREGA works in G. P. Bada Gran has stated that the following works have been executed under MGNREGA programme in G.P. Bada Gran (i) C/o Water preservation tank Nalhota (Mustroll No. 2700, 2701) (ii) C/o main path Bada Gran (Mustroll No. 2698, 2703) (iii) C/o main path village Nalhota (Mustroll No. 2704,2705) (iv) C/o Water preservation tank Bada Gram (Mustroll No. 2699, 2702). The assessment of C/o path Nalhota, water preservation tank Bada Gran, Path Bada Gran and Water preservation tank Nalhota has been carried out on 02-05-2010, 10-06-2010, 01-05-2010 and 08-07-2010 respectively by him.

3. Issues for consideration

On the basis of complaint, statements of the respondents (D-1 to D-3) and documents placed on record (8–Mustrolls), the following issues are hereby framed :-

- (a) Issue:- Whether Sh. Bhim Singh, Pradhan and Sh. Swaroop Katoch, Panchayat Secretary, G. P. Bada Gran (Chhota Bhangal) have delayed the payment of wages to the MGNREGA workers engaged by the Gram Panchayat Bada Gran for the execution of MGNREGA works or not ?

Before issue-wise findings are discussed, it is essential to discuss the prelim fact finding inquiry report of the BDO-cum-PO (MGNREGA) Baijnath who has reported in his report that the C/o water preservation tank Nalhota was executed vide mustroll no. 2699 from 01-04-2010 to 15-04-2010 and mustroll no. 16-04-2010

to 30-04-2010, the Construction work main path Bada Gran executed vide mustroll no. 2700 from 01-04-2010 to 15-04-2010 and mustroll no. 2701 from 16-04-2010 to 30-04-2010, C/o main path village Nalhota mustroll no. 2705 from 16-04-2010 to 30-04-2010 and C/o water preservation tank Bada Gran mustroll no. 2698 from 01-05-2010 to 15-05-2010 and mustroll no. 2703 from 16-05-2010 to 31-05-2010. Further has reported that mustroll no. 2832 from 01-06-2010 to 15-06-2010 and mustroll no. 2833 from 16-06-2010 to 30-06-2010 have also been used in the execution of C/o water preservation tank Bada Gran. The report further states that the payment relating to the above mustrolls to the MGNREGA workers has been reported made vide Ch. No. 785398 (PNB Multan), Ch. No. 785397 (HGB Barot) and Ch. No. 785396 (HPSCB Barot) on 09-08-2010 and payment in respect of mustroll No. 2832 and 2833 relating to C/o water preservation tank Bada Gran is yet to be made.

4. Issue-wise Findings

On in-depth examination of contents of the complaints, statements of the parties the prelim fact findings enquiry report of the BDO-cum-PO MGNREGA Baijnath and documents / evidence produced by the parties, issue-wise findings / conclusions with reasons are drawn and discussed as under:-

(a) Issue:- Answer to issue (a) is, Yes. On the basis of the complaint, statement of Sh. Bhim Singh Pradhan G.P. Baragan (Chhota Bhangaal), Sh. Swaroop Katoch Panchayat Secretary, Sh. Dev Raj Junior Engineer and perusal of Muster-rolls numbers 2700, 2701, 2698, 2703, 2704, 2705, 2699 and 2702. It has been established that the payment to the MGNREGA workers engaged against the MGNREGA works as discussed above has been made by the G.P. Bada Gran on 09-08-2010 vide cheque No. 785398 PNB Multhan, cheque No. 785397 Himachal Gramin Bank Barot and cheque No. 785396 Himachal Pradesh State Co-operative Bank Barot. It has also been found that payment pertaining to Muster-roll No. 2832 and 2883 is yet to be made (as reported by BDO-cum-PO MGNREGA Baijnath). It has also been found on the basis of entries in the Muster-roll that the works in question were taken up for execution Muster roll No. 2700, 01-04-2010 to 15-04-2010, Muster No. 2701, 16-04-2010 to 30-04-2010, Muster roll No. 2699, 01-04-2010 to 15-04-2010 Muster roll No. 2702, 16-04-2010 to 30-04-2010, Mustroll No. 2704, 01-04-2010 to 15-04-2010, Mustroll No. 2705, 16-04-2010 to 30-04-2010, Mustroll No. 2698, 01-05-2010 to 15-05-2010 and Mustroll No. 2703, 16-05-2010 to 30-05-2010. As per provisions made in the "National Rural Employment Guarantee Act-2005" 'Wages shall be paid weekly basis or with in 15 days from the date of work'. Since the payment to the MGNREGA workers has been released on 09-08-2010 which means that there is inordinate delay in making the payment which amounts to contravention of the provisions of the Act. Thus it has been established that the payment has been made late by 03 to 02 months approximately. The reasons given by the Panchayat Secretary for delayed payments that the distance from the Gram Panchayat Bada Gran to banks in which the Gram Panchayat is maintaining the account is more than 25 Km and being hilly area it took more time to credit the amount into the accounts of the MGNREGA workers can not be justified as the Gram Panchayat was supposed to release wages on weekly basis or within 15 days from the date of work, which the Gram Panchayat has failed to do. Similarly the reasons given by the Pradhan, Gram Panchayat that the payment of wages could not be made because he was not feeling well and remained admitted in the hospital. The three prescription slips produced by the Pradhan (D-1 (Doc.-1)) from Sh. Balaji hospital, Blalji vihar, Kangra does not

shows period of admission in the hospital, it only shows the medicines prescribed by the doctor. Moreover, even if the Pradhan remained ill during the period as he is claiming, he could have given the charge to the Up-Pradhan and informed the competent authorities so that the routine Panchayat work should not have suffered. It has also been found that the assessment of C/o path Nalhota, water preservation tank Bada Gran, Path Bada Gran and Water preservation tank Nalhota has been carried out on 02-05-2010, 10-06-2010, 01-05-2010 and 08-07-2010 respectively by the Junior Engineer. Thus it has been proved beyond doubt that the Gram Panchayat Bada Gran has failed to make the payment of wages to MGNREGA workers weekly or within 15 days from the date of work which defeats the main objective of the National Rural Employment Guarantee Act, 2005. It has also been found that so far the social audit of these works executed by the Gram Panchayat under MGNREGA programme has not been got conducted which is also a contravention of the provisions of the Act. Therefore, the above issue is decided in favour of the complainants and against the Panchayat functionaries i.e. Pradhan and Panchayat Secretary.

5. Conclusion

In view of foregoing reasons and findings, the allegations alleged in the present complaint stands established against the Gram Panchayat Bada Gran (Chhota Bhangal) Development Block Baijnath as per observations made above (Issue a-1). It has been established beyond doubt that there has been delay in making the payments to the MGNREGA workers by the Gram Panchayat Bada Gran by 03 to 02 months which amounts to contravention of the provisions of the MGNREGA Act, 2005, especially the main objectives of the act that is “the wages shall be paid on weekly basis or within 15 days from the date of work”. The complaint regarding non payment of timely wages to MGNREGA workers stands proved against the Panchayat.

Copy of the award be sent to the complainants, Sh. Deepak Thakur and Others Village Chhota Bhangal, Sh. Bhim Singh, Pradhan, Sh. Swaroop Katoch, Panchayat Secretary, BDO-Cum-PO (MGNREGA) Baijnath and Deputy Commissioner-cum-District Programme Coordinator (MGNREGA) Kangra at Dharamshala for information and further necessary action.

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

Announced

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