



सत्यमेव जयते

Government of Jammu and Kashmir
Public Works (R&B) Department
Civil Secretariat, Jammu /Srinagar
(HRM)

Subject: Initiation of RDA against Er. Satish Kumar Bhagat, then Executive Engineer, PMGSY, Division Pooch. (ACB-PWD-G-14/2019).

Government order No ~~331~~ PW(R&B) of 2022

Dated: 19-09-2022

Whereas, the General Administration Department vide communication No.GAD(Vig)08-RDA/2021, dated:18.02.2021, forwarded a copy of communication No.ACB-PWD-G-14/2019-742-43 dated:18.01.2021, alongwith its enclosures of Anti Corruption Bureau, for initiation of RDA against Er.Satish Bhagat, then Executive Engineer, PMGSY, JKRRDA, Division Pooch, in terms of J&K Civil Services (Classification, Control & Appeal) Rules, 1956.

Whereas, the ACB vide above quoted reference intimated that the instant enquiry owes its origin on the basis of press clipping published in Newspaper, "Early Times" on 22.01.2019, mentioning therein that the Executive Engineer, PMGSY, Division Poonch did not follow the laid down procedure/SOP for laying of optical fibre cable project of Reliance Jio on Loran-Mandi road in District Poonch and maintenance of damages caused to road, which cost 13 lives in a road accident.

1. The ACB also intimated that the during the inquiry, it surfaced that Executive engineer, PMGSY, Division Poonch did not receive funds from Reliance Jio on account of laying of Cable (optical fibre cable) as agreement of transaction was already made between Reliance Jio and M/s Talib Hussain Chashti, Contractor who was allotted the work by Chief Engineer, PMGSY (JKRRDA), Jammu in the year 2016 for the maintenance of road for next five years as being looked by allottee.

2. Moreover, during the course of further enquiry it came to fore that M/s Talib Chashti, Contractor submitted detailed estimate to the Reliance Jio Info comm Ltd, Jammu for restoration of road surface likely to be damaged by laying of cable (OFC) on Mandi Loran to Sultan Pathri road. Accordingly Reliance Jio vide draft No. 907331 dated 27.09.2018, paid an amount of Rs. 107.20 lacs for restoration of road 11.75 Kms @ 7.75 lacs/KM to M/S Talib Hussain Chashti. Further, during the course of enquiry it also surfaced that the then Executive Engineer, PMGSY, Division Poonch vide letter No.EE/PMGSY/P/881-82, dated: 18.08.2018 communicated with ROW Head, Reliance Jio, Jammu to negotiate with M/S Talib Hussain Chashti in whose favour the contract was granted for maintenance of road for next five year. However, it was noticed that the then Executive Engineer, PMGSY, Division Poonch had not followed the laid down "Standing Operating Procedure" (SOP) for laying down of optical fibre cable (OFC) and instead issued 'NOC' to Reliance Jio on his own to take up the matter for laying of OFC with M/S Talib Hussain Chashti, Contractor, which was not right as per procedures.

3. It was obligatory on the part of Executive Engineer, Division Poonch to submit the application regarding grant of permission for delaying of optical fibre cable of concerned

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agency to Chief Engineer, PMGSY JKRRDA, Jammu as per the "Standing operating procedure" (SOP) for further action but instead he himself entertained said application and asked the said firm i.e Reliance Jio to sign MoU road Contractor namely Talib Hussain Chashti thereby acted in violation of SOP existed at that time.

Whereas, the case of the said Engineer was examined in the department and subsequently, vide communication No.PWD-RDA/34/2021-01-Department of PWD R&B dated: 31.08.2021, the Article of charges were served to accused Engineer through Chief Engineer, PW(R&B) Department Jammu. Whereas, the delinquent Engineer submitted his reply to the article of charges, the same were examined and it was decided to conduct enquiry into the matter.

Whereas, vide Government Order No.17-PW(R&B) of 2022 dated 17.01.2022, Er. Nissar Ahmad Pandit, I/c Superintending Engineer, R&B Circle Rajouri-Poonch and Er. Mehmood Ahmad, I/c Executive Engineer, PMGSY, Division Poonch were appointed as Inquiry Officer and Presenting Officer respectively into the matter.

Whereas, vide communication No. R&B/38/2576 dated 25.06.2022 the Inquiry Officer reported that:-

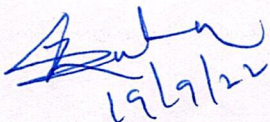
1. NOC was issued by Er. Satish Bhagat then Executive Engineer PMGSY Division Poonch for laying of OFC cable on road "Mandi to Sultanpathri Length= 17.50 KMs vide PMGSY Poonch office No.EE/PMGSY/P/1037-39 dated: 18.09.2018. The NOC was issued without following SOP, thus Executive Engineer has over stepped his authority in issuing this NOC. After issuing of NOC laying of cable on the subject road was started.

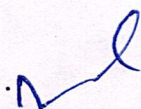
2. During the time of laying of OFC Cable, a bus was travelling from Loran Sultanpathri and it fell into a deep gorge, resulting in some eleven casualties. The detailed report of this episode along with site plan stands communicated vide PMGSY Poonch Office No.1037/39 dated 19.09.2018.

3. As alleged the fatal accident has resulted due to cable laying process as deep trenches were created at some spots of the road, thus holding Er.Satish Bhagat, then Executive Engineer PMGSY Division Poonch and its staff responsible for this fatal accident.

Whereas, the Inquiry Officer further reported that NOC was issued by then Executive Engineer PMGSY Division Poonch without following SOP's and no doubt he over stepped his authority in issuing this NOC. But it was issued only in the interest of safeguarding the road surface which has been blacktopped recently then. Often there are complaints from general public that on one hand roads are being blacktopped and on the other hand other line department starts digging of roads and it was due to this complaint at the back of mind that NOC was issued. MOU was drawn between the contractor " M/S Talib Hussain Chishti " who blacktopped the road and cable laying agency Reliance JIO. No financial transaction was involved in cable laying as certified by Executive Engineer PMGSY Division Poonch vide letter No.EE/PMGSY/P/1109-12 dated 22.06.2022. Thus establishing that NOC has been issued purely in the interest of safeguarding the road surface.

Whereas, the accident happened due to trenches created as result of cable laying is ruled out which is established by FIR No. 103 lodged in the Police Station Mandi. The FIR reads that the fatal accident resulted due to the rash and reckless driving of the


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driver. In fact two buses were overtaking each other to load the passengers and out of this competition, the driver of this ill fated vehicle while overtaking on the wrong side of sharp curve in KM 6th RD 100-125 of Mandi Sultanpathri road lost control of the vehicle and fell into Gorge. Article of charges thus cannot be attributed to Er. Satish Bhat then Executive Engineer PMGSY Division Poonch. In view of the statement of the accused official and perusal of all other documents, the enquiry officer concluded that charges leveled against the officer Er. Satish Bhagat, are frivolous and be dropped.

Whereas, the case file was referred to DCW for comments, the DCW returned the file with the following remarks:-

The instant case is based on the outcome of verification No.ACB-PWD-G-14/19-1775 dated: 28-01-2019 wherein Er.Satish Bhagat , the then Executive Engineer of PMGSY Division Poonch is accused of Issuance of "No Objection" to M/S Reliance Jio Company for taking the matter for laying of Optical Fiber cable(OFC) with M/S Talib Hussain Chishti (Contractor) which had already been allotted the maintained/execution of up gradation work on Loran Mandi-Sultan Pathri road without adhering Standard Operating Procedure(SOP) of the department for laying Optical Fiber Cable as neither Reliance Jio Company had approached the office of Chief Engineer, PMGSY, JKRRDA Jammu for laying of OFC on Loran Mandi-Sultan Pathri road . As per Inquiry Officer report the officer has resorted this act only in the interest of safeguarding the road surface which had been blacktopped recently then and there was complaints from general public that on one hand roads are being blacktopped and on the other hand line departments start digging of roads and it was due to this complaint at the back of mind that NOC was issued .MOU was drawn between the contractor M/S Talib Hussain Chisti and cable laying agency Reliance Jio. On examination of file ,based on careful scrutinization of Inquiry officers report, records and documents relevant to the case ,it has been observed that, NOC has been issued by the then Executive Engineer PMGSY Division Poonch without following SOP's and he has over stepped his authority in issuing this NOC. The works for restoration of damages occur for laying of OFC shall be carried out by adopting all the Codal procedures such as Technical Sanction, Tendering & Allotment. Unless & until there is any exigency, the work shall be executed departmentally that too with proper permission from the higher authorities. Moreover, amount received on account of damages for laying of OFC shall be utilize for the restoration of damage on same road after taking proper approval from the competent authority. The Supervision charges livable by the Public Works department (as Sanctioned, under Cabinet Order No. 1352 -C OF 1955 Dated 25th Agust, 1955) is 9.5 % for works costing Rs.5 Lakhs & more, that 9.5 % amount will be part of revenue. The Chief Engineer PMGSY (JKRRDA), Jammu vide letter No.CEJ/PMGSY/ 23061 dated: 10.03.2020 to the Enquiry Officer Anti-Corruption Bureau, Jammu clearly states that this department is a Part of PW(R&B) Department and we are operating the same system which is in vogue in that department .The standard operating procedure in this department is on the same as is being implemented by PW(R&B) Department. The standard operating procedures by office of Chief Engineer PMGSY (JKRRDA), in detail is as under:

The concerned OFC Agency applies in writing to this department for grant of permission. The letter for grant of permission is forwarded to the concerned Superintending Engineer for further transmission to the Executive Engineer for


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preparation of estimate for restoration of damages to the road on account of laying of fibre cables along the roads of this department. The Executive Engineer gets the detailed estimate prepared from the concerned staff and the matter re-flows to the Chief Engineer for Obtaining funds from the concerned agency for restoration after laying of cables after obtaining DD or other wise as cost of restoration in certain cases, the Executive Engineer is authorized to issue permission, where there is urgency for laying of cables duly expressed by the concerned agency. There is no procedure for drawl of memorandum of understanding with any of company, but there is only one way procedure e.g accord of permission which can be taken as MOU for execution of works by the department. The DCW has stated that NOC has been issued by the then Executive Engineer PMGSY Division Poonch without following SOPs and he has over stepped his authority in issuing this NOC"

The reports of I.O and DCW were examined and it came to the fore that the delinquent officer issued NOC for laying of OFC without following the SOP's as Executive Engineer is authorized to issue permission ,where there is urgency for laying of cables duly expressed by the concerned agency. Further there is no loss to the Govt. Exchequer and the NOC was issued in the interest of the administration in general and public in particular..

Now, therefore, in view of the above and upholding the recommendation of Development Commissioner (Works), and with the approval of the competent authority the allegations leveled against Er.Satish Bhagat, the then Executive Engineer, PMGSY, Division Poonch are dropped and case is hereby closed. He is warned to follow all the codal formalities as per laid down procedure and to remain careful in future

By order of the Government of Jammu and Kashmir.

Sd/-

(Shailendra Kumar) IAS

Principal Secretary to the Government

No. PWD-RDA/34/2021-01-Department of PWD R&B (C.No.25395) Dated: 19.09.2022

Copy to the:-

1. Secretary to the Government, General Administration Department. This is with the reference to his O.M No. GAD(Vig)08-RDA/2021 dated 18.02.2021.
2. Development Commissioner (Works), PW(R&B) Department.
3. Director, Anti Corruption Bureau, J&K.
4. Director Archives, Archaeology & Museum, J&K.
5. Chief Engineer, PW(R&B) Department, Jammu.
6. Private Secretary to Principal Secretary to Government, Public Works (R&B) Department.
7. Government Order file/Stock file.

Copy also to the Joint Secretary (J&K), Ministry of Home Affairs Government of India.

(Dr.Zeba Suleman)JKAS

Under Secretary to the Government
Public works (R&B) Department