

Court No. - 17

Case :- WRIT - C No. - 9213 of 2023

Petitioner :- Jagdish Prasad Maurya

Respondent :- State Of U.P. Thru. Addl. Chief Secy.
Panchayati Raj U.P. Lko. And 7 Others

Counsel for Petitioner :- Daya Shankar Yadav

Counsel for Respondent :- C.S.C., Pankaj Gupta

Hon'ble Alok Mathur, J.

1. Heard Sri D.S. Yadav, learned counsel for petitioner as well as learned Standing Counsel for respondent Nos. 1 to 7 as well as Sri Shivansh Srivastava, Advocate holding brief of Sri Pankaj Gupta, learned counsel for respondent No. 8.

2. The grievance of the petitioner is with regard to construction of model fair price shop in Village Panchayat Gauriya, Block Huzupur, District Bahraich.

3. It has been submitted that the said shop is being constructed next to the house of the Pradhan and number of villagers have opposed the said proposal. He has further relied upon a notice dated 04.10.2023 authored by Sub-Divisional Magistrate, Bahraich given to the gram pradhan, Gauriya District Bahraich asking him to show cause as to why action should not be taken for constructing a model fair price shop without their being any proposal or approval.

4. Learned counsel for petitioner submits that despite the said notice, the respondents are proceeding to construct the said shop and consequently has prayed for a direction to respondent Nos. 1 to 7 to restrain the village pradhan from constructing the said shop.

5. Learned Standing Counsel on the other hand has opposed the writ petition. He has submitted that on the complaint given by villagers, action has already been initiated by the Sub-Divisional Magistrate, Bahraich and also a notice dated 04.10.2023 has been given to the pradhan to show cause. He has further submitted that proceedings in accordance with law have already been initiated and it cannot be said that the authorities are sitting tight on the said matter and no direction are required by this Court to interfere with the said proceedings.

6. He has also submitted that necessary orders shall be passed

by the Sub-Divisional Magistrate, Bahraich after response is received from gram pradhan.

7. Considering the aforesaid facts, it is the discretion to third tier of democracy to take decision within their domain. Interference in exercise of power under Article 226 of Constitution of India can be made only where it is demonstrated that the decision taken by the gram panchayat is violative of any statutory provisions is arbitrary or irrational. In the present case, the letter of the Sub-Divisional Magistrate, Bahraich mentions that no proposal has been passed nor any approval has been made and it seems that he is the competent authority to deal with the matter and consequently a notice has been given.

8. In light of the fact that proceedings have already been undertaken, no interference is required by this Court under Article 226 of Constitution of India. At this stage, it is expected that Sub-Divisional Magistrate, Bahraich shall proceed in accordance with law and conclude the matter expeditiously.

9. In view of the above, the writ petition stands **disposed of**.

(Alok Mathur, J.)

Order Date :- 27.10.2023

Ravi/