

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12697 of 2002

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Doctor Yogendra Prasad, son of Sri Bindeshwar Prasad, resident of Village Palipar,
P.S. Ekangar Sarai, District-Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. District Magistrate, Nalanda
3. Additional Collector, Nalanda
4. Deputy Development Commissioner, Nalanda
5. S.D.O. Hilsa, Nalanda
6. Superintendent of Police, Nalanda
7. Block Development Officer, Ekangar Sarai, Nalanda
8. Officer-in-Charge, Ekangar Sarai, Nalanda
9. Anchal Adhikari, Ekangar Sarai, Nalanda
10. Mukhia Gram Panchayat Raj Gomhar, P.S. Ekangar Sarai, Nalanda
11. Sri Balmiki Prasad Singh, Panchayat Sevak Jamuama Panchayat, Abhikarta of
the Scheme
12. Pramukha, Ekangar Sarai Block, P.S. Ekangar Sarai, District-Nalanda.

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahesh Prasad-2, Advocate

For the Respondent/s : Mr. S. P. Verma, AC to GA 1.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 02-04-1015

Heard learned counsel for the petitioner and learned
counsel for the State.

In this writ petition grievance has been raised by the
petitioner that against the resolution of Panchayat Samiti
construction of the community hall has been built over a Pine
which obstructs the movement of water for irrigation purposes
which has been disputed by the learned counsel for the State.

It has been submitted that character of pine has
changed. It is no longer a channel for irrigation rather it becomes

a plain land. The D.D.C. after proper approval and allotment of fund constructed the community hall for the people of the village.

Learned counsel for the petitioner submits that community hall has been constructed far away from the village and the same will not serve any purpose. It is undisputed fact that building of community hall has been constructed.

This Court can not decide the disputed facts. Selection of site for a Government building discretion lies with the executive. This Court should not normally interfere in the wisdom of the authority to select the place for the construction of building though there is resolution of the Panchayat Samiti against that site. In the case of J.R. Raghepats Vs. State of A.P., reported in AIR 1988 SC 1681 where the Hon'ble Supreme Court faced with same question has said that executive are best person to select the suitable place for the purposes of building as discretion lies to them, the Court will interfere only for exceptional case.

This Court does not find any reason to interfere in the matter as construction of building has already been completed. However the petitioner will be at liberty to file a petition before the Collector and if the Collector arrives to a finding that building is obstructing irrigational channel then he will try to sort out the difficulty of villagers.

With the aforesaid observation this writ petition si
disposed of.

Vinay/-

(Shivaji Pandey, J)

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