

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2029 of 2015

- Sukhman Netam S/o Milku Ram Netam Aged About 50 Years R/o Main Road Lanjhoda, Gram Panchayat Lanjhoda, Tehsil Farasgaon, Dist Kondagaon (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Principal Secretary, General Administration Department, Mahanadi Bhawan, Naya Raipur, Dist Raipur (Chhattisgarh)
2. The Collector, Dist Kondagaon (Chhattisgarh)
3. Chief Executive Officer, Jila Panchayat, Dist Kondagaon (Chhattisgarh)
4. Chief Executive Officer, Janpad Panchayat Farasgaon, Dist Kondagaon (Chhattisgarh)
5. Santosh Soni S/o Not Known, Aged About 48 Years Sub Engineer, Janpad Panchayat Farasgaon, Dist Kondagaon (Chhattisgarh)

---- Respondent

and

WPC No. 1041 of 2016

Sukhman Netam S/o Milku Ram Netam, Aged About 50 Years R/o Main Road, Lanjhoda, Gram Panchayat Lanjhoda, Tehsil Farasgaon, District Kondagaon Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Principal Secretary, General Administration Department, Mahandi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. The Collector, District Kondagaon, Chhattisgarh
3. Sub Divisional Officer, (Revenue) Kondagaon, District

Kondagaon Chhattisgarh

4. Chief Executive Officer, Jila Panchayat, District Kondagaon Chhattisgarh
5. Chief Executive Officer, Janpad Panchayat Farasgaon, District Kondagaon Chhattisgarh

---- Respondent

For Petitioner
For Respondent-State
For Respondent No.4 -
in WPC No.2029/2015

Shri Lalit Jangde, Advocate
Shri B. Gopa Kumar, Dy. AG
Shri P. K. Bhaduri, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

02/08/2016

1. In WPC No.2029/2015, the petitioner is aggrieved by order (Annexure-P-8) passed by the Collector, Kondagaon, whereby the administrative approval for disbursal of Rs.4.92 lacs for construction of community hall at Village/Gram Panchayat Lanjhoda has been cancelled on account of dispute concerning the location of the said community hall.
2. In WPC No.1041/2016, the petitioner has assailed the legality and validity of the order (Annexure-P-10) passed by the Chief Executive Officer, Jila Panchayat, Kondagaon directing the petitioner to deposit the amount of Rs.3,80,000/- recovered from the shop holders, failing which proceedings under Section 92 (2)

of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (henceforth 'the Adhiniyam, 1993') would be initiated against the petitioner.

3. It is argued that an approval for construction of community hall was resolved by the Gram Panchayat/Gram Sabha and thereafter the Gram Panchayat started raising construction by using the sum of Rs.3,80,000/-, which was recovered from the shopkeepers, to whom 19 shops were allotted in the shopping complex constructed by the Gram Panchayat. It is further argued that having used the amount, the Gram Panchayat was waiting for disbursal of Rs.4.92 lacs for completion of construction of community hall so that the funds of the Gram Panchayat recovered from the shopkeepers can be re-deposited in the shopping complex funds. However, the order (Annexure-P-8) has been passed by the Collector, Kondagaon, which is adversely affecting the interest of the Gram Panchayat. He would submit that for the same reason, the petitioner is not able to deposit the amount of Rs.3,80,000/- and a threat of initiation of proceedings under Section 92 (2) of the Adhiniyam, 1993 is looming large over his head. It is further argued that the impugned orders in both the writ petitions are contrary to law and the Collector, Kondagaon has infact cancelled the construction of community hall, which would adversely affect the development work in the Panchayat.
4. Learned State counsel would submit that the petitioner is

involved in embezzlement or illegal diversion of funds, therefore, he is not entitled for indulgence under Article 226 of the Constitution of India.

5. Perusal of the papers would manifest that the petitioner being Sarpanch of the concerned Gram Panchayat was having control over the funds. When the shopping complex was constructed, the petitioner obtained Rs.20,000/- each from 19 allottees, however, instead of depositing the same in the account of the Gram Panchayat, the same was retained by him and it is this amount which has been used by the petitioner for alleged part of construction of the community hall. Though, according to the respondents, the petitioner has used the amount for construction of a temple, which was not at all permissible. It also appears, there being serious dispute in respect of location of the community hall, the funds earlier sanctioned was not disbursed, therefore, the Collector, Kondagaon cancelled the allotment of Rs.4.92 lacs by its order dated 04.08.2015. It is contended that some part of this amount has already been released, therefore, cancellation thereof was not at all warranted.
6. Be that as it may, the dispute brought before this Court under Article 226 of the Constitution of India concerns the day to day administration of the offices under the control of the Collector and the Jila Panchayat, which cannot be subject matter of the scrutiny by the writ Court. There is serious dispute as to the location of

the community hall proposed to be built. There is further dispute about sanctioning of layout and disbursal of amount whether in part or full. Moreover, there are allegations that having realised the amount from 19 allottees, the petitioner has not deposited the same in the Panchayat funds but has diverted the same for construction of temple. It appears, the matter can only be gone into in appropriate proceedings under Section 92 (2) of the Adhiniyam, 1993, where the parties would be afforded opportunity to defend their case. This Court sitting under Article 226 is not entitled to interfere in such matters concerning location of community hall, its construction, diversion of panchayat funds for construction of temple etc., which are required to be looked into by the concerned Collector and Jila Panchayat.

7. It goes without saying that in any proceeding initiated by the competent authority under Section 92 (2) of the Adhiniyam, 1993, notice will be issued to the petitioner, wherein he will be afforded opportunity of hearing to defend himself. At this stage, learned State counsel will inform that such proceedings have already been drawn by issuing a notice to the petitioner on 09.12.2015, wherein the petitioner has already submitted his reply.
8. In view of the foregoing, this Court does not deem the present writ petitions to be worth interference with the impugned orders. They are dismissed subject however to the observation made above about affording opportunity of hearing to the petitioner in

the proceedings under Section 92 (2) of the Adhiniyam, 1993, wherein the petitioner would be at liberty to defend himself by producing all relevant materials.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala