

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.849 of 2017

=====

Vinita Devi, Wife of Sri Shakti Nath Jha, Resident of Village & P.O.- Kanhai,
Police Station- Ghanshyampur, District- Darbhanga at present Mukhiya of Gram
Panchayat Raj Kanhai, Block- Gaurabauram with the District of Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar,
Patna.
3. The Project Director, Panchayati Raj Department, Govt. of Bihar, Patna, Bihar
Gram Swaraj Yojna Society, 3rd Floor, Biscoman Tower, Gandhi Maidan, Patna-1.
4. The District Magistrate, Darbhanga.
5. The District Panchayat Raj Officer, Darbhanga.
6. The Deputy Development Commissioner, Darbhanga.
7. The Sub-Divisional Officer, Biraul Sub-Division, Darbhanga.
8. The Circle Officer, Gaurabauram Block, Darbhanga.
9. The Block Development Officer, Gaurabauram Block, Darbhanga.
10. The Chief Engineer, Planning and Development Department, Visheshwariya
Bhawan, Bihar, Patna.
11. The Executive Engineer, Planning and Development Department, Benipur-2,
Darbhanga.
12. The Junior Engineer Planning and Development Department, Benipur-2,
Darbhanga.
13. Sohan Jha, Son of Ras Bihari Jha, Resident of Village and P.O. Kasraur, Police
Station- Ghanshyampur, District- Darbhanga.

.... Respondent/s



=====

Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha, Advocate
For the State : Mr. Ravindra Kumar, AC to AAG 6

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 16-08-2017

Heard learned counsel for the petitioner and State.

2. The petitioner has moved the Court for the following
reliefs:

“ i) For directing the respondent authorities specially the Respondent No. 3 to 5 to approved/construct the Panchayat Government Building (Panchayat Sarkar Bhawan) in Kanhai Panchayat (Gram Panchayat Raj Kanhai) in Baharana Rahi Hasanpur, Thana No. 332 (Ward No. 4 of Kanhai Panchayat) instead of earlier selected place i.e. Bhinda of Kanchuahi Pokhar on the ground that Bhinda of Kanchuahi Pokhar is outer area of Kanhai Panchayat and selection of Panchayat Bhawan on Kanchuahi Pokhar is completely violation of guideline issued by the state government bearing its letter no. BBSYS/BPSP/BSB/260/2016/127 Patna dated 05.10.2016 issued under the signature of the Project Director, Panchayti Raj Department in which there is clear cut direction to the concerned District Magistrate regarding selection/construction of place



of Panchayat Bhawan whereas new place Baharana Rahi Hasanpur fulfill all the criteria for selection/approval/construction of Panchayat Bhawan as per the guideline issued dated 05.10.2016.

ii) For directing the respondent authorities specially the respondent no. 3 to 5 to cancel the earlier selected place i.e. near the Bhinda of Kanchuahi Pokhar, Kanhai for construction of Panchayat Bhawan in Gram Panchayat Raj Kanhai (Darbhanga) on the ground that it does not fulfill the criteria as per the guideline of the state government.

iii) For all consequential relief/reliefs for which the petitioner is found entitled in course of hearing of this writ application.”

3. The case of the petitioner is that though the place was selected for building of the Panchayat Government Building in the year 2012 but in the year 2016 the same was revised and still building is being built on the place which was recommended in the year 2012.

4. Learned counsel for the petitioner submitted that in October, 2016 a fresh guideline was framed by the State with regard to the place where the said building could be built under letter dated 05.10.2016 which, besides other things, prohibits such construction on the edge of a pond. It was submitted that the present site which was



approved in the year 2012, besides not having proper approach is being built on the edge of a pond, which is improper and thus the Gram Panchayat had recommended a fresh site which fulfils the criteria fixed by the Government. Learned counsel submitted that there are various conflicting reports, one against the site on which it is being built and one in favour of the said and this itself raises doubts with regard to the veracity and authenticity of the report and further that the so called land donated by private persons, relating to the land approved in the year 2012, 16 decimals of Government land was also shown donated to the Government and thus, the site approved in the year 2012 is controversial and a fresh site, as approved by the Gram Panchayat itself in the year 2016 should be the site on which the Government Panchayat Building is required to be built.

5. Learned counsel for the State, on the basis of the counter affidavit, submitted that in the year 2012 a proposal recommended by the Gram Panchayat was duly approved at all levels and further, that according to the existing guideline, none of the conditions have been violated and even with regard to the guidelines issued by the State Government on 05.10.2016, the said are not applicable to schemes which have already been approved in the past and is only for fresh identification of land. It was further submitted that even the fresh recommendation of the Gram Panchayat was in



August, 2016 i.e. almost two months prior to issuance of letter dated 05.10.2016 and thus this guideline is of no relevance in the present controversy. Learned counsel submitted that field reports which have been called for indicate that the land, besides being adequate, is also well connected and further that in public interest, all such government and community buildings should not be located at one place and should be distributed in various other localities also. It was further submitted that construction has progressed to a major extent.

6. Having considered the matter, the Court does not find any occasion to interfere in the matter for the reason that once the Gram Panchayat, which is empowered to decide the location, has approved the site in the year 2012 and there being no controversy or opposition against the same, only because after fresh election in the year 2016, a new Committee is there, it would not have jurisdiction to revise and cancel the earlier proposal just because a better site may be available. These are matters for consideration within the domain of the concerned Gram Panchayat. The site selected in the year 2012 has been approved and the field report also does not indicate any violation of any stipulation, as was required at the relevant point of time, and in fact there being reports to show that the said land is adequate and fulfils the criteria, there would not be any occasion to intervene in the matter and take a different view with regard to the location of such



Government Panchayat Building, moreso, when nothing glaring has come to the notice of the Court which would persuade it to take a different view and intervene in the matter.

7. For the reasons aforesaid, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	

