

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6629 of 2016

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Jai Kant Ray, S/o Late Banarsi Ray, Resident of village - Lognay, P.S.
Dhoraiya, District - Banka

.... Petitioner/s

Versus

1. The State of Bihar through Director, Integrated Child Development Scheme (I.C.D.S.) Government of Bihar, Patna
2. Director, Integrated Child Development Scheme (I.C.D.S.) Government of Bihar, Patna
3. District Magistrate/Collector, Banka
4. District Programme Officer (I.D.D.S.), Banka
5. Circle officer, (Anchal Adhikari) Dhoraiya, Banka
6. Block Development Officer, Dhoraiya, Banka
7. Child Development Project Officer, (C.D.P.O.) Dhoraiya, Banka

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Davendra Kumar Pandey, Advocate
For the Respondent/s : Mr. Gyan Prakash Ojha, G.A. 7
Mrs. Priya Gupta, A.C. to G.A. 7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 17-04-2017

In the matter of constructing an Anganwari Centre in the Panchayat in question in Ward No. 2 for which approval was granted and land was available, a decision is taken for shifting of the construction of the Centre to another area, therefore, this writ petition has been filed in public interest contending that contrary to the scheme, the Anganwari Centre is being constructed on an area where already there are two Anganwari Centres and, therefore, public interest would not be subserved.

2. Apart from the fact that the construction in



question is based on a scheme on the basis of assistance granted by the Union of India under the 13th Finance Commission from Paragraphs 7 to 11 the detailed affidavit filed by the State Government indicates that on receiving complaints from the local villagers a Committee was constituted, an inquiry was conducted and after due inquiry the action in question has been undertaken. In Paragraphs 7 to 11 the following statements are made in the counter affidavit.

“7. That, earlier there was a proposal for construction of Aanganwari Center bearing center code no. 197 in login Panchayat in ward no. 2 under the thirteenth finance Commission programme. The proposed place for construction has been selected by the Aam Sabha in the meeting presided over by the ward number. The boundary of the proposed site was East Rokoli river, West-Nahar, North- Ward No. 1, South- Beli village.

8. That, the respondent no. 5 vide letter no. 310 dated 30.03.2015 has issued no objection certificate on the basis of inquiry report submitted by the revenue karamchari for the land bearing Thana no. 31 having Khata No. 72, Khesra no. 302, area 0.047 dec. (Parti Kadim) found to be suitable for construction of building of Aanganwari center.

9. That, on the basis of said no objection certificate issued by the respondent no. 5 the



approval was made to construct the said building on the said land. The departmental contractor has started construction of the said building. In the mean time an objection was made by the villagers of logain village and the construction work was stopped.

10. That, in view of the said objection the respondent no. 6 vide letter no. 999 dated 27.07.2015 has directed the respondent no. 7 to submit report in the said matter but as the inquiry report could not be submitted till 25.08.2015 the respondent no. 6 has himself conducted inquiry on 29.07.2015 and examined several villagers who has supported the fact that due to non availability of govt. land in the said nutritive area the construction is being made just on the distance of 100 meters from the nutritive area. The villagers has recorded no objection in sending their wards in the said Aanganwari centre. The statements of the villagers were also recorded by the respondent no. 6.

11. That, the respondent no. 7 has also submitted report after conducting inquiry on 24.11.2015 in pursuance of the letter dated 10.09.2015 vide letter no. 1081 issued by the respondent no. 4 As per inquiry it was found that in the village logain there are two Anganwari centre. Center no. 104 and Center no. 197 for the present both the Aanganwari center is being run in



the ward no. 1 i.e. on center no. 104 and recently now Aanganwari center is being constructed in the nutritive area where there is no govt. land is available so the center no. 197 which is situated at just 100 meters distance for which consent was given by the ward member. The villagers on inquiry has not raised any objection. Further it was found that there is no building of Aanganwari center is the ward no. 2 and there is also a Tola Consisting the aadiwasies (Schedule Tribes) who are not being benefited by any center and if construction is being made on the proposed site the aadiwasies also to be benefited. Since construction has been made at KURSHI level and govt. money has already been use so in the interest of the govt. the construction work has to be started on the said land.”

3. Even though learned counsel for the petitioner vehemently argued that inspite of objections given by the Mukhiya, impugned action is taken, we are of the considered view that in a matter of implementation of a scheme, if a decision has been taken by the competent authority for reasons as are indicated from Paragraphs 7 to 11 of the counter affidavit and reproduced hereinabove, in the matter of construction of an Anganwadi Centre, this Court cannot sit over the decision of the authority as if it is exercising as a further appellate authority and



direct by a *mandamus* to implement the scheme in a particular manner. It is for the authorities concerned who are dealing with the matter at the ground level to take a decision in the matter and until and unless *mala fides*, arbitrariness or statutory provisions found to be violated, established or proved in the matter, interference in the matter, particularly in a Public Interest Litigation is not called for.

4. Accordingly, finding no case for making any indulgence into the matter, we dismiss the writ petition.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

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