

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.237 of 2017

In

Civil Writ Jurisdiction Case No.5822 of 2004

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The State of Bihar represented through the District Magistrate, Bhagalpur

... .. Petitioner/s

Versus

Jai Prakash Uddyan Sah Sandy's Compound Vikas Samiti represented through its present Secretary, Shri Rama Kant Jha, Son of Late Jarab Lal Jha, residing at 164, Lal Bagh, Tilkamanjhi, P.S. Barari, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Ravish, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-04-2018

This application has been filed for modification/clarification of an order dated 12.04.2005 passed in C.W.J.C. No. 5822 of 2004.

Having heard learned counsel for the parties, we find that the following directions were issued in the said writ petition filed by the respondents in public interest on 12.04.2005.

“So far as other constructions, such as stadium, PHED power house, Sulabh Sauchalaya and the old clubs are concerned, in our view they are necessary for the healthy development of the area. So we are not inclined to issue any direction



for their removal. However, it is made clear that henceforth no construction should be made in the Sandy's compound even if they relate to public utility services. If there is any problem in future, the petitioner can bring these facts to the notice of the Court."

It is stated now in this application that there is a prohibition from carrying out any construction in the compound in question and as is indicated in the reproduced portion (underlined) and as the issue now relates to public utility service, the factors are now brought to the notice of this Court for clarification.

Now, in this application in Paragraph 7 the following averments are made:-

"That it is stated that by way of abundant precaution the present modification application is being filed by the State to seek modification of the order dated 12.04.2005 passed in CWJC No. 5822 of 2004 in view of subsequent orders and in view of the fact that there exists a District Guest House (Circuit House) within the periphery of the Sandy's Compound and the same is surrounded by brick wall and within the boundary of the Circuit House there are existing vacant land and the entire campus is not used by common public being meant for District Guests and staffs only."



and permission is sought to clarify the order or modify it to the extent that the existing Guest House/Circuit House which is in the periphery of the compound and which is surrounded by a brick-wall within the boundary of the Circuit House, there exist vacant land and the Government wants to develop it as a District Circuit House/Guest House and facility for the staff.

Further averments made in Paragraph 11 shows that the District Soldier Welfare Office situated in the compound is also required certain repair work and to that extent permission is sought for. Further in Paragraph 12 it is indicated that Steering Committee has been constituted and a sum of Rs. 3,71,75,300/-have been sanctioned for upgradation of the Children Park and installation of new equipment, upgradation of Gym, Boxing Club etc. and reconstruction of the stadium premises in the area in question. The original petitioner, which is respondent herein, has filed a counter affidavit and in Paragraph 9 has made the following suggestion with regard to development of the area in question:-

“9. That there are certain issues with regard to the beautification of the Park, which is required to be looked into by the District Administration and necessary steps is required to



be taken by them, which are as follows:-

- (i) The trees in the Sandy's compound are being eaten up by the termites due to which, many trees have dried up. Thus, urgent steps are required to be taken for plantation of new trees and for protection of the old trees from termites,
- (ii) Upgradation of children park and installation of equipments for amusement of children,
- (iii) Upgradation of gym and boxing club
- (iv) Reconstruction of stadium premises
- (v) Repairing of boundary wall and other works
- (vi) Proper arrangement of lighting and water
- (vii) Repairing and beautifucation of Tennis court, Badminton court, Basket Ball court, Volley Ball courts etc.
- (viii) Upgradation/repairing of path way, tiles work etc.
- (ix) Construction of urinals/toilets for ladies and gents
- (x) Construction of pond, fountain, landscape etc. and facility of water harvesting
- (xi) Proper security arrangement in the Park
- (xii) Proper arrangement of sanitation of the Park.”

Keeping in view the facts and circumstances of the case, we permit the development in the area as prayed for only to the extent of the existing District Guest House/Circuit House as requested in Paragraph 7, some construction/repairing with



regard to the District Soldier Welfare Office as contained in Paragraph 11 and taking steps for development of the area in question and while doing so, the suggestions given by the petitioner in Paragraph 9 shall be taken note of in the meeting of the Steering Committee wherein the original petitioner in the writ petition shall be permitted to participate and a decision taken after consultation with everybody.

With the aforesaid clarification, the application stands disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	01.05.2018
Transmission Date	

