

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8669 of 2020

Bulbul Devi wife of Shri Sachen Yadav resident of Village- Babhangama-
Mahesh, Ward No. 5, within Gram Panchayat, Sukhasan, Police- station-
Gwalpara, District- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
2. The Divisional Commissioner, Koshi Division, Saharsa.
3. The Collector-cum- District Magistrate, Madhepura.
4. The Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Madhepura.
5. The District Panchayat Raj Officer, Madhepura.
6. The Sub- Divisional Officer, Uda- Kishunganj, District- Madhepura.
7. The Block Development Officer, Gwalpara, District- Madhepura.
8. The Prakhanda Panchayat Raj Officer, Gwalpara, District- Madhepura.
9. Smt. Rubi Devi wife of Shri Manoj Prabhakar, elected Mukhiya of Gram Panchayat, Sukhasan and resident of Ward No. 2, Gram Panchayat, Sukhasan, Police- Station- Gwalpara, District- Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ranjit Kumar Singh
For the Respondent/s : Mr. Pawan Kumar, A.C. to A.G.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

**(The proceedings of the Court are being conducted through
Video Conferencing and the Advocates joined the proceedings
through Video Conferencing from their residence.)**



Date : 21-10-2020

Heard the parties.

Petitioner has prayed for following relief:-

“That by the present application, the petitioner hereof craves indulgence of this Hon’ble Court for issuance of an appropriate writ/writs, rule, direction/directions, more particularly in the nature of ‘Mandamus’ commanding and directing the respondents to act upon in accordance with clause-5 & 6 of the Executive instructions issued by respondent – Principal Secretary, Department of Panchayati Raj, Government of Bihar as contained in Memo No.2 Pa/ Vi Sa-01-25/2019/7593 Pa Ra, Patna dated 26.11.2019 whereby the modalities for selection of the site for construction of Panchayat Sarkar Bhawan have been explicitly laid down which has been deviated at the instance of the respondent no.9 and restricted site on the bank (Kachhar) of Koshi (Sursar) river where 3-4 feet water logging continue for six months over the year which is situated about 120 yards away in front of the palace of Mukhiya (Resp. No.9) has been selected which appears to be just contrary to the directives of the department, moreover, most uncomfortable for the larger population who reside 13-14 K.M. away from the selected site within the territorial jurisdiction of the concerned Gram Panchayat, ignoring the proposal on affidavit to donate the land required for construction of Panchayat Sarkar Bhawan, measuring an area of 0.58 decimal appertaining khata no.479, corresponding khesra no.3093 which is situated at the middle of the Gram Panchayat, Sukhasan and suitable for construction of Panchayat Sarkar Bhawan as per the norms for selection of the site followed by the directives issued by the department which may be directed to be act upon, accordingly and / or any other relief/ reliefs for which the petitioner may be found entitled thereto as this Hon’ble Court may deem just and proper in the facts and circumstances of the instant case.”



Petitioner who is resident of village Bhabangama and represents Ward No.5 in Panchayat (Sukashan) which constitutes 18 wards has filed this writ petition in nature of public interest litigation in which it is alleged that government of Bihar has given administrative sanction for construction of 1435 Panchayat Sarkar Bhawans with estimated cost of Rs.1,44,31000- for construction of each Panchayat Sarkar Bhawan.

Principal Secretary, Panchayati Raj, Government of Bihar has issued a circular dated 26.11.2019 (Annexure P/1) in which guidelines with respect to selection of land for construction of Panchayat Raj Bhawan have been outlined according to which, Panchayti Raj Bhawan as far as practicable should be constructed in the Panchayat headquarter village, however, in case of non-availability of the land in Panchayat headquarter village, provision has also been made for construction of Panchayat Raj Bhawan in another village for which land is to be selected by the District Magistrate. In present case, petitioner has nowhere stated that whether the present site selected is in Panchayat headquarter village or not. The question of selecting other site for construction of Panchayat Raj Sarkar Bhawan will arise only if the land is not



available in the Panchayat headquarter village.

It is submitted on behalf of the petitioner that in general body meeting, resolution was adopted that the land selected for construction of Panchayat Raj Bhawan (Sukashan) has been made at the dictates of present Mukhiya and selected land does not satisfy the criteria upon which Gram Panchayat Sarkar Bhawan (Sukashan) is to be constructed as same is low-lying land and remains waterlogged for almost six months in a year and is also not easily accessible and said land has been selected only for the reason that it is located in front of the house of present Mukhiya.

Several representations were made by villagers of said Panchayat as well as by the elected representatives of local self-government to construct the Panchayat Sarkar Bhawan (Sukashan) in the middle of village Babhangama khata no.479, plot no.3093, measuring 0.58 decimals which satisfies all the criteria as laid down in the government circular for construction of Gram Panchayat Sarkar Bhawan (Sukashan) and said land has been donated by Baijnath Das for construction of Panchayat Raj Sarkar Bhawan which is ideally located and suited for construction of Panchayat Sarkar Bhawan (Sukashan) and is easily accessible for all villagers of Panchayat for whole year.



It has been lastly submitted that a representation to this effect has been filed before District Magistrate, Madhepura by Block Pramukh, Gwalpara, District, Madhepura but no action has been taken by the District Magistrate, Madhepura who is the competent authority to select the land for construction of Gram Panchayat Sarkar Bhawan.

The writ petition is disposed of with a direction to the petitioner to file a fresh detailed representation raising all the grievances as raised in this writ petition before the District Magistrate, Madhepura who shall hear the petitioner and other interested persons and shall decide the representation within four weeks from the date of its filing. However, if any grievance of the petitioner still survives, liberty reserve to her to take recourse to such remedies as are otherwise available in accordance with law.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.10.2020
Transmission Date	NA

