

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10363 of 2021

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Sanjay Singh Son of Mangal Singh, resident of Village - Nuniyadih,
Mahamadpur Mahamda, P.S. - Baruraj, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Rural Development Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Govt. of Bihar.
3. The District Magistrate cum Collector, Muzaffarpur.
4. The Sub-Divisional Officer, West, Muzaffarpur.
5. The District Panchayati Raj Officer, Muzaffarpur.
6. The Circle Officer of Motipur Block, P.S. - Baruraj, District - Muzaffarpur.
7. The Block Development Officer of Motipur Block, P.S. - Baruraj, District - Muzaffarpur.
8. The Mukhiya of Gram Panchayat Raj Mahamadpur Mahamda, Block - Motipur, P.S. - Baruraj, Muzaffarpur.
9. The Panchayat Secretary of Gram Panchayat Raj Mahamadpur Mahamda, Block - Motipur, P.S. - Baruraj, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Yugal Kishore, Advocate
For the Respondent/s	:	Mr. P. N. Shahi, AAG 6
		Mr. Awnish Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 24-08-2021

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

(I) For issuance of an appropriate writ in the nature of certiorari for quashing the order dated 16/03/2021 (Annex-8) passed by respondent no.2 in pursuant to order passed in CWJC No.9305/2020 "Sanjay Singh Vs. State of

Bihar & Others” by which the petition filed by the petitioner has rejected by the respondent no.2 on the ground that respondent no.3, i.e., District Magistrate-cum-Collector, Muzaffarpur has given sanction for construction of Panchayat building known as Panchayat Secretariat on the basis of report given by Block Development Officer as well as Circle Officer and while deciding the petition filed by the petitioner the respondent has not considered the fact that the fact that the new construction of building is done near river bank which is adjacent to the bank, i.e., less than 50 meter and also failed to consider the fact that the construction of the new panchayat building is not done in the centre of the village of revenue village and also the same is road in government map and passed order without applying his judicial mind.

(ii) For issuance of an appropriate writ in the nature of mandamus, commanding and directing the respondents stop construct Panchayati Raj Building (Known as Panchayat Secretariat) on the khata no.438, khesra No.706, area 4 acre 36 decimal, which is situated at the border of the village and the said khata land is last northern side border of the village situated at the border of East Champaran and the said khata lands stands as road in the map.

(III) For issuance of an appropriate writ in the nature of mandamus, commanding and directing the respondents to stop ground digging and layout work for construction of new Panchayat Secretariat building on Khata

no.438, khesra no.706, area 4 acre 36 decimal of the Gram Panchayat Raj Mahamadpur mahamda, P.S. Baruraj, Block-Motipur, District, Muzaffarpur on the basis of report of govt. Anchal Amin, which report it has clearly mentioned that the construction is done within 15 meter of river bank and also direct the respondents to construct new Panchayat Raj Secretariat building at the same place where old panchayat Raj building is existing, i.e., at village Mahamadpur Mahamda, which is in the centre of the village and near old Panchayat building there is sufficient government land exist which is still vancant.

(iv) For issuance of an appropriate writ in the nature of mandamus, commanding and directing the respondents to consider the facts that as per Panchayat Raj Act the building should be constructed in the centre of revenue village of the Panchayat and revenue village of Panchayat is Mahamadpur Mahamda and construction of the new building is also going to done in same village, but the place opted by the present Mukhiya and Panchayat Secretary is not in the centre of the village rather, although the construction is going on in revenue village but it is on the last northern side of the village and the same is situated just near the district East Champaran and the location wise it is not easy for the people of Panchayat Raj to move at the last area of the village as there is five village in Panchayat Raj Mahamadpur Mahamda, i.e. Sansa, Dharampur, Ishak,

Mahamadpur Raje and Mahamadpur Mahamda.

(V) For issuance of any other writ/writs/order/orders/direction / directions for which the writ petitioner is legally found entitled on behalf of his community and poor villagers under the facts and circumstances of the case.”

Petitioner had earlier approached this Hon’ble Court by filing writ petition in nature of PIL being CWJC No.9305 of 2020 which was disposed of on 16.12.2020 with liberty to petitioner to file a representation with respect to his grievances before the Principal Secretary, Panchayati Raj Department, Government of Bihar, who shall consider such representation and after hearing all the concerned parties shall pass a reasoned and speaking order and thereafter petitioner represented before the Principal Secretary, Panchayati Raj Department, Government of Bihar who rejected his representation by order dated 15.03.2021 against which, present PIL has been filed.

The grievance of the petitioner is with respect to selection of land in village headquarter for construction of Panchayat Raj Bhawan in Panchayat Mahamadpur, Mahamada which is also the headquarter of said Panchayat and according to guidelines issued by the Panchayati Raj Department, the Panchayat Sarkar Bhawan is to be constructed in the Panchayat

headquarter for which suitable land is to be selected by the local authority after consultation with representatives of Panchayat and inviting suggestion / objection from residents of said Panchayat and final decision is to be taken by the District Magistrate of concerned district.

The main grievance of the petitioner is that land selected for construction of the Panchayat Sarkar Bhawan is not suitable as it is situated on the outskirts of village headquarter, whereas, same should be located in the centre of village headquarter and villagers will have difficulty in its utilization. Further contention was that river is flowing by its side, as such, same is not safe.

Panchayati Raj Officer was also present during hearing and stated that BDO and CO vide letter no.957 dated 10.7.2019 proposed a land for construction of Panchayat Sarkar Bhawan, measuring 4.35 acres appertaining to khata no.438, khesra no.706 which was found suitable and same was recommended by the District Panchayat Raj Officer by his letter dated 1549 dated 14.9.2020. The District Magistrate also vide letter no.516 dated 8.2.2021 has stated that the concerned land is not partially / fully waterlogged area and is also not within 30 meter from any water body. The District Magistrate was again

asked to submit a fresh report and thereafter by letter no.994 dated 9.3.2021 submitted a fresh report in which it is stated that concerned land is recorded in revenue records as Rasta upon which 58 decimals is road and on 50 decimals of land, Panchayat Sarkar Bhawan is under construction and adjacent to it, 40 decimals of vacant land is available for multiple purpose and rest of lands are vacant at present.

The Principal Secretary has held that the present land has been found suitable by the BDO as well as CO and the land is government land and located within the headquarter village of Panchayat. The District Magistrate has also found the land to be suitable for which administrative sanction has been granted and rejected the objections raised by the petitioner with respect to selection of land for construction of Panchayat Raj Bhawan. Petitioner has also not brought to notice of the authorities that land suggested by him is more suitable than present land and also fulfills all the criteriaes for construction of Panchayat Raj Sarkar Bhawan.

The selection of land for construction of Panchayat Sarkar Bhawan exclusively lies within the domain of executive and this Court finds that the Principal Secretary after hearing all the concerned parties, has found the land suitable for

construction of Panchayat Sarkar Bhawan which has been found suitable as per guidelines issued by the Panchayati Raj Department as well as the land was inspected on the spot by the Circle Officer and the BDO and was found suitable for construction of Panchayat Sarkar Bhawan and same was also approved by the District Magistrate, Muzaffarpur and thereafter administrative sanction was granted by him, as such, this Court does not find any perversity, illegality or error in the order passed by Principal Secretary, Panchayati Raj Department.

Accordingly, the present writ petition filed in nature of PIL is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.11.2021
Transmission Date	NA