

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9483 of 2022

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Dharmendra Singh Son of Late Vishwanath Singh, resident of Village and
P.O.- Karup, Via-Gorari, Police Station- Karakat, District- Rohtas.Petitioner/s
Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
3. The Joint Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
4. The District Magistrate-cum-Collector, Rohtas at Sasaram.
5. The Deputy Development Commissioner, Rohtas at Sasaram.
6. The Incharge Officer (Development), Rohtas at Sasaram.
7. The Circle Officer, Karakat, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jitendra Prasad Singh, Advocate
For the Respondent/s : Mr.Yogendra Pd. Sinha (Aag7)

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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 : 29-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

i. For setting aside the order dated 29.1.2022 contained in Memo
No:2 passed by District Magistrate, Rohtas at Sasaram by which
he has rejected the claim/representation of the petitioner filed
against the inclusion of village Karup under the Karakat
Municipal area (Nagar Panchayat) without appreciating and
considering the legal as well as factual aspect of the matter.

- ii. For setting aside the notification no.996 dated 3.3.2021 whereby in exercise of power under section 6 of the Bihar Municipal Act, 2007 in short, Municipal Act, respondent constituted the Nagar Panchayat Karakat (Gorari) district Rohtas in which village Karup, Thana No.655 has been included which does not come and fulfill the required criteria for inclusion under the municipal area.
- iii. For direction to the respondent not to include village Karup in the Karakat Nagar Panchayat taking into consideration the facts and materials available on the record.
- iv. For grant of any other relief or reliefs for which petitioner is entitled in the fact and circumstances of the case.

Aggrieved by issuance of notification dated 26.02.2020 for inclusion of Village-Karup in Karakat Nagar Panchayat, petitioner and others filed objections dated 23.01.2021, before the District Magistrate, Rohtas, to exclude the village Karup from Nagar Panchayat Karakat and also approached this Court by filing CWJC No. 8843 of 2021, which was disposed of by order dated 19.07.2021, with liberty to approach the District Magistrate who shall consider the representation and pass reasoned and speaking order within three months, pursuant thereto a detailed representation dated 30.07.2021

along with supporting documents was filed before the District Magistrate which was considered and rejected by order dated 29.01.2022, which is impugned in this writ petition.

The District Magistrate on enquiry has held that as per 2011 census the population of the village dependent upon agriculture is less than 50 per cent and as per District Statistical Handbook 48 per cent of the population of village Karup are agriculturist as such village Karup was recommended to be included in the Nagar Panchayat, Karakat, along with other villages, in terms of guidelines issued by department of Urban Development and Housing, Govt. of Bihar.

The District Magistrate has further held that the contention of petitioner that 74.14 per cent of the total population of the village is dependent upon agriculture and 79.50 per cent is agricultural land is not correct.

Notification dated 03.03.2021 with respect to constitution of Nagar Panchayat, Karakat, which includes Village-Karup has already been issued by department of Urban Development and Housing Department. Panchayat Elections have already been held and municipal elections are going to be held, as such at this juncture no interference is required with respect to issuance of notification by which village Karup has

been included in Karakat Nagar Panchayat.

However, it shall always be open for the petitioner to approach the State Government for exclusion of his village Karup from Nagar Panchayat, in view of Section-8 of the Municipal Act, 2007, which reads as follows:-

“8. Power to abolish or alter limits of municipal area.- The State Government may, by notification, -

(a) withdraw any municipal area or part thereof from the operation of this Act, or

(b) exclude from a municipal area any local area comprised therein and defined in the notification, or

(c) include within a municipal area any local area contiguous to such municipal area and defined in the notification, or

(d) divide any municipal area into two or more municipal areas, or

(e) unite two or more contiguous municipal areas so as to constitute one municipal area, or

(f) revise the boundary of two or more contiguous municipal areas:

Provided that the procedure laid down for the constitution of a municipal area under this Act shall be followed *mutatis mutandis* in each such case:

Provided further that the views of the Municipality affected by any such notification shall be invited by the State Government within such time as may be specified in the notification, and the State Government shall consider the views of the Municipality as aforesaid before a final declaration is made:

Provided also that no such notification shall be issued where any part of the municipal area or any neighbouring area is a cantonment or part of a cantonment, as defined in the Cantonments Act, 1924.”

The writ petition is, accordingly, disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

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