

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10942 of 2012

Jisaya Gomango and others ***Petitioners***

Mr. S. Mohanty, Advocate

-versus-

State of Orissa and others ***Opposite Parties***

Mr. A.P. Das, A.S.C.

CORAM:
THE CHIEF JUSTICE
JUSTICE B. P. ROUTRAY

ORDER
16.05.2022

Order No.

05.

1. The issue involved in the present petition concerns the correctness of the decision of the Government of Orissa manifested in the order dated 10th May, 2012 of the Revenue and Disaster Management Department ordering that the headquarters of the Nuagad Tahasil Office will be at Dogharia instead of Nuagad.

2. The eleven Petitioners, who are all residents of Gram Panchayat Nuagad in Gajapati district, are aggrieved by the above decision on the ground that the decision to shift the headquarters to Dogharia was without any enquiry; without consulting the Petitioners and without addressing the genuine interests of the residents of Naugad.

3. While issuing notice in the present petition on 30th June, 2012, this Court directed that status quo shall be maintained. That interim order has continued almost ten years now.

4. In response to the writ petition, two affidavits have been filed. The first is by the Deputy Collector, Gajapati on 27th August, 2012 placing on record the proceedings of the 'Site Selection

Committee'. In response to the question as to the construction of Tahasil Office buildings and staff quarters, the Tahasildar had submitted three alternative sites at Nuagad, Khajuripada and Dogharia. The Site Selection Committee met on 23rd April, 2011 under the Chairmanship of the Collector, Gajapati, where it was resolved that the proposed site at Dogharia shall be selected and accepted. This was after considering the most suitable site from the point of view of communication facilities and availability of Government land for construction of Tahasil Office and buildings.

5. Another counter affidavit was filed by the Under Secretary to Government, Revenue and Disaster Management Department, where it was pointed out that while the Petitioners submitted a representation on 2nd December, 2011 asking that the headquarters be continued at Nuagad, the MP of Berhampur made a representation on 15th April, 2011 with a request to open the Tahasil Office at Khajuripada. It is pointed out that after considering the representations as well as the reports of the Collector, Gajapati, R.D.C.(S.D.) and Member, Board of Revenue, the Government decided to fix the headquarters at Dogharia by impugned notification. The justification offered is that the distance from Dogharia to Nuagada is 5 KMs. As there is no Government land available near the Block Office and the land available is about two kilometers away and is not connected by road the Site Selection Committee and Collector, Gajapati proposed Dogharia as the location for the new Tahasil Office and therefore, 'it was found more appropriate to locate the headquarters of Nuagada Tahasil at Dogharia.'

6. Despite the above counter affidavits having been filed more than nine years ago, no rejoinder affidavit has been filed till date by the Petitioners.

7. Mr. Srinivas Mohanty, learned counsel appearing for the Petitioners, places reliance on the decision of this Court in ***Sarat Kumar Raj v. State of Odisha 117 (2014) CLT 584*** to urge that the impugned decision to shift the Tahasil headquarters to Dogharia must be set aside by this Court.

8. The Court has carefully perused the above decision which appears to have turned on its own facts. As noted by this Court in the said decision, there were two conflicting reports of the Collectors as regards the location of the Tahasil headquarters. At one point of time there was a report of the Collector-cum-District Magistrate, Balasore to create the Tahasil headquarters at Bahanaga. At a later point of time, another Collector-cum-District Magistrate gave a contrary report. Noting that “both the reports of the Collector-cum-District Magistrate, Balasore are diametrically opposite and inconsistent,” this Court ordered a High-Level Committee to be constituted to examine the issue.

9. On the basis of above decision, Mr.Mohanty argues that even in this case, a High-Level Committee must be established to examine the issue.

10. The Court is unable to agree with the above submission. As rightly pointed out in ***Sarat Kumar Raj v. State of Odisha (supra)***, after analyzing a number of decisions of the Supreme Court, in matters of policy the Court should be slow to interfere. The Court in that case concluded that “the Court cannot strike

down a policy decision taken by the State Government merely because it feels that another policy decision would have been fairer or wiser or more scientific or logical. The Court can interfere only if the policy decision is patently arbitrary, discriminatory or mala fide.”

11. In the present case, the Petitioners have been unable to show in what manner the impugned decision to shift the Tahasil headquarters to Dogharia from Nuagada could be said to be patently arbitrary, discriminatory or mala fide. On the contrary, the counter affidavit points out that a new location is at a distance of just about five kilometers from Nuagada and that there is insufficient land available at Naugada for constructing a Tahasil Office as well as staff quarters.

12. In that view of the matter, the Court is not inclined to interfere with the impugned order dated 10th May, 2012 shifting the headquarters of the Tahasil from Nuagada to Dogharia.

13. The interim order is vacated. The writ petition is dismissed, but with no order as to costs.

(Dr. S. Muralidhar)
Chief Justice

(B.P. Routray)
Judge