

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.15363 OF 2020

Sasmita Das and others *Petitioner(s)*
Mr.P.K.Rath,
Advocate

-versus-

State of Odisha and others *Opposite Party(s)*
Mr.S.P.Panda,
AGA
Mr.S.K.Dalei,
Advocate

CORAM:
JUSTICE BISWANATH RATH

ORDER
29.07.2022

Order No.

06. 1. On consent of the Parties, the matter is taken up for final hearing.
2. Heard learned counsel for the Parties.
3. The Writ Petition involves a challenge to the fresh order passed by the competent authority pursuant to a direction of the Division Bench in disposal of number of Writ Appeals vide Annexure-1 taken up together along with Writ Appeal No.204 of 2019 ended in partial of modification of the Single Bench judgment involving the W.P.(C) No.21661 of 2018. It appears in the first round of litigation in W.P.(C) No.21661 of 2018, the previous order involved construction of the Gram Panchayat building involving Balabhadraprasad Gram Panchayat.
4. After hearing the Parties, the W.P.(C) No.21661 of 2018 appears to have been disposed of by a judgement. This Writ Petition

also appears to have been disposed of with W.P.(C) No.6432 of 2018 with the following directions:-

10. “For the support of the decisions of the Site Selection Committee by the State, for there is no objection for the State Government in working out the recommendation of the Site Selection Committee for having the Gram Panchayat building over a Government land and the decision of the Government is being passed under the provisions at Sections-3 & 4 of the Odisha Gram Panchayat Act and for the support of the action of the State Government through two decisions referred to hereinabove, this Court finds, the petitioner involving W.P.(C) No.6432 of 2018 has a case to succeed and this court finds no force in the submission of the second and third writ petitions involving W.P.(C) No.21661 of 2018 and W.P.(C) No.4548 of 2019.

In the process, this Court while allowing W.P.(C) No.6432 of 2018 directs the O.Ps.2 & 3 to proceed with the construction of the Balabhadra Prasad Gram Panchayat building in terms of the recommendation of the Site Selection Committee without any further wastage of time and shall see that there shall be completion of the construction within a period of one year at the maximum. In the process, this Court dismisses W.P.(C) No.21661 of 2018.

As a consequence of the result involving W.P.(C) Nos.6432 of 2018 and 21661 of 2018, this Court finds, the prayer involving W.P.(C) No.4548 of 2019 requires no attention, which thus stands dismisses.

No cost.”

The judgements in the above batch cases were challenged in Writ Appeal No.204 of 2019 along with several other writs. This batch of Writ Appeals were disposed of with the following direction:-

“In view of the foregoing discussions, we modify the impugned judgment to the extent that let a fresh decision be taken by the Collector and District Magistrate, Nayagarh (respondent no.2) regarding the site selection after ascertaining the correct state of affairs from the Head Master of Rabindra Kumar Uchha Vidyalaya and in case the aforesaid two plots were utilized by the High School for playground, any other plots shall be selected with permission of the Collector for construction of the Gram Panchayat building.

Accordingly, all the writ appeals are disposed of.”

Reading through the Division Bench judgment, it appears in the Division Bench there arose some dispute with regard to the playground involving the school situated within the Gram Panchayat particularly over Plot Nos.199 and 202.

5. Keeping in view the contentions of the Parties and on involvement of concession by the Petitioner as recorded therein the Division Bench modified the Single Bench judgment to the extent directing for fresh consideration of the Gram Panchayat building construction aspects while keeping in view the protection of the playground of the High School.

6. Pursuant to the direction of the Division Bench, it appears the matter was freshly undertaken and decided involving all parties to contest and finally rejecting the request of the applicant for shifting construction of the Gram Panchayat building for the reason described therein. It is here taking into account the sole dispute involving the Writ Petition challenging the order at Annexure-1, it is alleged that there has been no protection of the playground involved therein in spite of a clear direction by the Division Bench.

7. This Court takes into account the contentions of Mr.Dalai, learned counsel for the Opposite Party and Mr.Panda, learned Additional Government Advocate in their objection to the entertainability of the Writ Petition.

8. Taking into account the discussion in the Division Bench reading together with the observation in the impugned order at Annexure-1 series particularly with regard to the playground involving Plot Nos. 199 and 202 taken into account here, the statement of the Headmaster of High School Mr. Kulamani Parida, this Court from the

statement finds, the Headmaster has specifically stated that there is no use of such plots came to be utilized as playground by the student of his school. Even though there is no mentioning of the Plot Nos. 199 and 202 in the statement of the Headmaster, this Court from the discussion at further level finds claim on the playground involved Plot Nos. 199 and 202 remain unfounded. From the statement of the Headmaster, this Court again finds while stating that the claim plots are not utilized by the students as playground, the Headmaster has specific statement that the students of the School are utilizing playground within the campus/ field of the school. This Court here records the submission of Mr.Rath, learned counsel for the Petitioner that his clients interest is only involving protection of playground meant for the school children.

9. It is keeping in view the rival claim involving the playground of the school and the discussion of the competent authority, this Court finds on the basis of the written statement of the headmaster, the competent authority has recorded the Plot No.1131 of village Dukhapali is reserved being utilized as playground as per record of rights. In the fitness of things, this Court finds in the process of repeated litigations, there has been inordinate delay in the construction of the Panchayat building and there never involved plot Nos. 199 & 202 as playground.

10. In the circumstance, this Court finds the claim of the Petitioner on the basis of Plot Nos.199 and 202 does not get any support. It is on the other hand for the written statement view of the headmaster, and all the recording by the competent authority, this Court finds Plot No.1131 of the village Dukhapali is being used as playground.

11. This Court therefore while declining to interfere in the impugned order simply observes the Plot No.1131 of the village

Dukhapali claims to have been utilized as playground of the school should be protected while undertaking the construction of the Gram Panchayat building. There is no prohibition on construction of Gram Panchayat building on the land already determined vide Annexure-1.

12. With the above observation, the Writ Petition stands disposed of.

(Biswanath Rath)
Judge

Swarna

