

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No. 14609 OF 2022

Niranjan Dalei and another

Petitioners

Mr. Pravash Chandra Jena, Advocate

-versus-

State of Odisha and others.

.... Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

10.06.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The grievance of the Petitioners in this writ petition is with regard to construction of a Kalyan Mandap over Plot No. 121/2914 under Khata No. 661 to an extend of Ac. 0.630 decimals situated in Mouza-Jamusahi under Nayagarh Tahasil in the district of Nayagarh.
3. It is submitted by Mr. Jena, learned counsel for the Petitioners that earlier Jamusahi was a part of Khuntubandha Gram Panchayat under Nayagarh Tahasil in the district of Nayagarh. Subsequently, some of Khatas of the said Mouza was included under Nayagarh Municipality, but the land over which construction of Kalayan Mandap is contemplated was not included under Nayagarh Municipality and remained under the jurisdiction of Khuntubandha Gram Panchayat. Earlier, the Sarpanch of Khutubandha Gram Panchayat had moved this Court in W.P. (C) No. 5994 of 2018 assailing the action of Nayagarh Municipality in constructing Kalyan Mandap over the aforesaid plot. This Court considering the matter vide order dated. 26th

October, 2021 disposed of the writ petition with the following order:

“1. Mr. Jena, learned Advocate appears on behalf of the Petitioner, who is a resident of Village-Kaithgadia, P.O. Jamusahi, Mr. Jena, submits, his client’s residence falls within the area of Khuntubandha Gram Panchayat. Prayer of his client is to restrain the Notified Area Council (NAC), Kalyan Mandap from making any type of construction in the land of the Gram Panchayat.

2. Mr. Tripathy, learned advocate appears on behalf of Opposite Party No. 4 and submits, the Gram Panchayat has since been included in the notified area.

3. Mr. Das, learned advocate, Addl. Standing Counsel appears on behalf of State and points out from notification dated 24th August, 2018 that inter alia Jamusahi village in Khuntubandha Gram Panchayat was included in the notified area.

4. In view of aforesaid, it is clear that the dispute raised in the writ petition is interdepartmental matter of the NAC. As such, the council will deal with the grievance of petitioner within three weeks from communication of this order.

5. The writ petition is disposed of.”

4. Accordingly, the matter was considered by the Executive Officer, Nayagarh Municipality and the impugned order has been passed on 7th May, 2022 (Annexure-7) holding that Jamusahi is coming under the jurisdiction of Nayagarh Municipality and thus, the grievance of Sarpanch of Khuntubandha Gram Panchayat was rejected.

5. It is the submission of Mr. Jena, learned counsel for the Petitioners that vide Letter No. 8969 dated 7th October, 2017 of Executive Officer, Notified Area Council (NAC), Nayagarh, some plot numbers of Jamusahi were included in the Municipal area but

the schedule of the said land was not included over which the aforesaid construction of Kalyan Mandap is contemplated.

6. The Executive Officer, Nayagarh Municipality without taking into consideration the Letter No. 8969 dated 7th October, 2017 (Annexure-2), issued by the Executive Officer, Nayagarh NAC, mechanically passed the impugned order under Annexure-

7. He, therefore, submits that the matter require fresh consideration by the Executive Officer, Nayagarh Municipality keeping in mind the letter under Annexure-2 giving opportunity of hearing to the Petitioners.

8. Mr. Mishra, learned Additional Standing Counsel submits that he has no instruction in the matter. Since the Petitioners pray for fresh consideration of the matter, the Executive Officer, Nayagarh Municipality may take a decision in that regard.

9. Taking into consideration the submissions made by learned counsels for the parties and the order proposed to be passed in this writ petition, this Court feels that no fruitful purpose will be served by keeping the matter pending awaiting response from the Executive Officer, Nayagarh Municipality.

10. Accordingly, this Court without expressing any opinion on the merits of the case disposes of this writ petition with a direction that in the event the Petitioners make a comprehensive representation to the Executive Officer, Nayagarh Municipality- Opposite Party No.4 within a period a seven days hence along with certified copy of this order, he shall do well to take a fresh decision on the same as expeditiously as possible, preferably

within a period of fifteen days therefrom and communicate the order to the Petitioners forthwith.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Vacation Judge

bks/sb

