

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.22484 of 2022

Premlal Naik & Anr.

.... ***Petitioner(s)***

Ms. S. Mohapatra,
Advocate

-versus-

State of Odisha & Ors.

.... ***Opposite Party(s)***

Mr. S.P. Panda,
Addl. Govt. Adv. for O.Ps
Mr. S.K. Sarangi,
Sr. Advocate for Interveners
in W.P.(C) No.13895 of 2019
Mr. A.K. Nayak,
Advocate for Interveners
in W.P.(C) No.13895 of 2019

CORAM:
JUSTICE BISWANATH RATH

ORDER
17.10.2022

Order No.

04. **1.** This Writ Petition has a checkered history. Though this Writ Petition involves a challenge to the field report stated to be an outcome of the direction of this Court, but as alleged, such report has been prepared clearly misunderstanding the direction of this Court in disposal of W.P.(C) No.22031 of 2018.
- 2.** Factual background involved herein is that; initially W.P.(C) No.11808 of 2016 was brought challenging the decision of the public authority in the matter of establishment of headquarters of Gram Panchayat, Bhainsal, which matter appears to have been disposed with the following direction:-

“Heard.

The petitioners, though are aggrieved by the bifurcation of Parkod Grama Panchayat in the district of Nuapada, learned counsel for the petitioners now confines her submission to the effect that the Headquarters of the newly created Grama Panchayat named Bhainsal, should be fixed at Baloda instead of Bhainsal, as village Bhainsal is located at the corner of the area. Village Baloda is having highest population and it has also communication to all the villages with the newly created Grama Panchayat.

Taking into consideration the limited grievance of the petitioners and without going into the merit of the case, this writ application is disposed of directing the petitioners to file a fresh representation along with a certified copy of this order and a copy of the writ application containing all the annexures before the Commissioner-Secretary, Panchayati Raj Deptt. within 15 days from today.

Learned Commissioner-cum-Secretary, P.R. Department is directed to consider the grievance of the petitioners within six weeks from the date of receipt of a certificated copy of this order. If necessary, the petitioners and other concerned parties may be given opportunity of hearing in the matter, and a reasoned order in consonance with the guidelines of the Government be passed by the learned Commissioner-cum-Secretary, P.R. Department.

It is made clear that, the learned Commissioner-cum-Secretary, P.R. Department shall not be swayed away by any assertion made in the counter, and if the assertion of the petitioners are found to be genuine and in accordance with the guidelines of the Government, the Headquarters of the newly created Grama Panchayat Bhainsal be accordingly located by disposing of the representation of the petitioners within six weeks from the date of receipt of the representation of the petitioner.

The writ application is accordingly disposed of.

The interim order passed earlier stands vacated forthwith.

A copy of this order be supplied to the learned Addl. Govt. Advocate for compliance.”

3. Taking this Court to the history of the case and the plethora of directions in disposal of several writ petitions, a submission is advanced by Ms. Mohapatra, learned counsel for Petitioners that even assuming that there involves a field inquiry, but considering that the present Petitioners have already preferred so many writ petitions and they have a stake in the field inquiry ultimately, there should have been

at least information to the Petitioners regarding such field inquiry. In the process Ms. Mohapatra, learned counsel for the Petitioners claimed for interference of this Court in the impugned order vide Annexure-9 and setting aside of the same thereby passing appropriate order.

4. Mr. Panda, learned State Counsel, however, through the counter affidavit attempted to submit that there has been a field inquiry in terms of the direction of this Court in disposal of the above noted W.P.(C) No.11808 of 2016. For there is working out of a direction of this Court, it appears, there is no infirmity in the same requiring interference of this Court. Mr. Panda, learned State Counsel, however, has no quarrel on no involvement of the Petitioners herein in the field inquiry nor even on the aspect that the present Petitioners are already involved in so many writ petitions.

5. It appears, there are intervention applications pending in W.P.(C) No.19835 of 2019. For the nature of dispute involved herein this Court also involves the submission of the submission of Mr. A.K. Nayak, learned counsel for the interveners in W.P.(C) No.13895 of 2019 and Mr. S.K. Sarangi, learned Sr. Advocate appearing on behalf of another set of interveners in W.P.(C) No.13895 of 2019. Both the counsel in one tone submitted that they support the report at Annexure-9 herein and requested this Court for rejection of the writ petition. Both the counsels, however, did not dispute on the number of Writ Petitions already involved but at the instance of the Petitioners herein and that the Petitioners have not been involved in the field inquiry.

6. It is, at this stage, considering the series of writ petitions disposed of in the meantime vide W.P.(C) No.11808 of 2016, W.P.(C) No.4592 of 2017, W.P.(C) No.22031 of 2018 and two writ petitions pending herein taken up together vide W.P.(C) No.13895 of 2019 and

W.P.(C) 22484 of 2022, this Court finds, there cannot be any denial to the fact that the present Petitioners have stake in the decision involving the field inquiry and in the interest of justice, if at all there was direction for field inquiry involving the location of the Gram Panchayat headquarters, the Petitioners herein ought to have been involved in the process of field inquiry. As this Court finds, the field report at Annexure-9 has been prepared without involving the present Petitioners, the field report vide Annexure-9 ought to be interfered with. This Court here records the admission by all the counsel that there is no construction of Gram Panchayat headquarters as of now. This Court, accordingly, interfering in the field report at Annexure-9, sets aside the same and remits the matter to the Opposite Party No.1 to conduct the desired field inquiry with the involvement of the Petitioners as well as the interveners involved herein. In the process of filed inquiry, to avoid any further litigation to this Court, this Court hopes and expects, while conducting the filed inquiry the authority shall also give a general notice through the Panchayat Office Notice Board thereby inviting application / objections, if any, by any other interested party and thereafter shall proceed to complete the proceeding by involving all such objectors and if required, further also convening a “Grama Sava” in that regard in the locality.

7. The entire exercise shall be completed within a period of three months from the date of communication of a certified copy of this order by the Petitioners.

8. The Writ Petition stands disposed of with the above order.

(Biswanath Rath)
Judge