

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13874 of 2023

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Muratuja Alam S/O Md Afzal Hussain, Resident of Village- Parsauni
Mallavar (Mailvar), P.S. - Parsauni, District – Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna, Bihar.
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The Principal Secretary, Education Department, Government of Bihar, Patna.
4. The District Magistrate, District - Sitamarhi, Bihar.
5. The District Panchayati Raj Officer (DPRO), Sitamarhi, District - Sitamarhi, Bihar.
6. The Sub-Development Commissioner, Sitamarhi, District - Sitamarhi, Bihar.
7. The District Education Officer, Sitamarhi, District - Sitamarhi, Bihar.
8. The Sub Divisional Officer, Belsand, District - Sitamarhi, Bihar.
9. The Block Development Officer, Parsauni Block, District - Sitamarhi, Bihar.
10. The Block Panchayati Raj Officer, Parsauni Block, District - Sitamarhi, Bihar.
11. Fakira Mahto, son of Ram Ekbal Mahto, The Present Mukhiya, Village Panchayat- Parsauni Mallavar (Mailvar), Ward No. 15, P.S. - Parsauni, District- Sitamarhi, Bihar.
12. Vijay Vimal Sinha, The Present Panchayat Secretary, Village Panchayat - Parsauni Mallavar (Mailvar), P.S. - Parsauni, District - Sitamarhi, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Diwakar, Advocate
For the Respondent/s : Mr. Prabhakar Jha, G.P.-27



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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJIV ROY)
Date : 02-02-2024

The present Public Interest Litigation has been preferred by the petitioner for the grant of following reliefs:-

(i) for issuance of an order (s) / direction (s) or writ(s) in the nature of writ of Mandamus as well as Prohibition for directing the concerned Respondents to apply an injunction over the demolition and re-construction of panchayat bhavan at Village Panchayat- Parsauni Mallavar (Mailvar), P.S. Parsauni, District-Sitamarhi, Bihar with immediate effect and also to maintain status quo till the final disposition of the case;

(ii) for issuance of further order(s) / direction(s) or writ(s) in the nature of writ of Quo Warranto upon the Respondents and especially upon Respondent No. 11 & 12, challenging/ asking for the authority or process by which in a most arbitrary and illegal way, acting in connivance to each other for the sake of their personal benefit, they without conducting



any auction or putting the matter before Aam Sabha/ Gram sabha or Karyakarini, they demolished the previously built panchayat bhawan which was good in condition, sold all the debris materials (malba) out of the demolition of that panchayat bhawan and now are also using the old bricks and other materials derived out of that debris in the construction of the new panchayat bhavan;

(iii) for issuance of further order(s) / direction(s) or writ(s) in the nature of Prohibition for the sake of prohibiting the Respondents concerned in using the old bricks and other rotten construction materials derived out of that debris along with other very cheap quality materials in the re- construction of the new panchayat bhawan as using the old materials will affect the quality of new building and will also put the life of the villagers in danger;

(iv) for issuance of further order(s) / direction(s) or writ(s) in the nature of Certiorari for imposing huge costs upon the Respondents concerned and also for ordering them to repay the amount to the village panchayat against their malafide and arbitrary



act by which for their personal benefit they did unnecessary demolition of earlier built panchayat bhavan, sold the debris materials and other properties which were present in that building and are using very cheap quality materials along with old building's debris for the construction of new panchayat bhavan.

2. The facts of the case as narrated in the writ petition is/are as follows:-

3. The case of the petitioner is that the old panchayat bhavan of Parsauni Mailvar panchayat was situated at the land of +2 Janta Uchch Vidyalaya, Parsauni Chowk, Sitamarhi where the old building was demolished by the respondents and a new building is being constructed thus wasting the public money/ fund. The petitioner through his letter no. 053 dated 17.08.2023 inquired from the Principal of the said School as to whether any N.O.C. was taken for demolishing of the old building and re-constructing the new Panchayat Bhavan situated in the School who in turn vide letter no. 73 dated 30.08.2023 denied issuance of any such N.O.C.

4. The petitioner's contention is that he made a representation to the District Magistrate cum Collector, Sitamarhi by his letter no. 054 dated 21.08.2023 but no action



was taken. He also represented before the Block Development Officer, Parsauni block, Sitamarhi but without any response. The petitioner claims that the District Education Officer also in his letter no. 2124 dated 21.08.2023 supported his case.

5. The contention of the learned Counsel for the petitioner is that it was also widely covered in the local newspaper but as no steps were taken by the respondents, the present writ petition.

6. On 26.09.2023, this Court wanted the respondents to file counter affidavit in the matter. This was reiterated in the order dated 13.10.2023 in which direction was given to the District Magistrate, Sitamarhi to conduct an enquiry through an Officer of the Revenue Department authorized by him who shall file an affidavit thereafter.

7. A counter has accordingly been thereafter filed on behalf of the respondent no. 4, the District Magistrate, Sitamarhi duly put on affidavit by the Additional Collector, Sitamarhi in which it has been stated that in compliance with the abovementioned order passed by the Hon'ble High Court which followed the direction of the District Magistrate, Sitamarhi, the Additional Collector (Revenue), Sitamarhi alongwith the Sub-Divisional Officer, Belsand made spot enquiry relating to the



dispute in question, in course of which, the relevant papers submitted by the respondent no-11 and 12 as well as reports submitted by the Block Panchayat Raj Officer, Parsauni and the Circle Officer, Parsauni were taken on record. Accordingly, they submitted joint report vide letter no. 4135/Revenue dated 16.12.2023 (Annexure- 'B') to the District Magistrate, Sitamarhi.

8. According to the report:

(i) as per proposal no.- 17 of the proceeding of the meeting of '*Gram Sabha*' held on 04.01.2022 (Annexure- 'C'), direction was taken to reconstruct the old Panchayat Bhawan of the Gram Panchayat Raj Parsauni Mailwar;

(ii) the said decision was confirmed in the proceeding of the meeting Working Committee on 02.02.2022 (Annexure- 'D');

(iii) pursuant to the letter no.- 602, dated- 28.05.2022 (Annexure 'E') issued by the Block Development Officer, Parsauni, the old Panchayat Bhawan of Gram Panchayat Raj, Parsauni Mailwar in question was inspected by the Assistant Engineer, Building Division, Sitamarhi and it was reported by him that the said old building was found in dilapidated condition. Accordingly, the old Panchayat Bhawan



was declared abandoned by the Executive Engineer, Building Division, Sitamarhi vide Letter No-772/Sit (Bhawan) dated-15.06.2022 (Annexure- 'F');

(iv) vide letter no-70 dated 24.07.2023, the proposal was sent to the Block Panchayat Raj Officer, Parsauni issued under the joint signature of the 'Mukhiya' and the Panchayat Secretary (Annexure-G) with request to issue order for reconstruction of the old Panchayat Bhawan, Parsauni Mailwar. Accordingly, an order was issued by the Block Panchayat Raj Officer, Parsauni Vide Memo No-164, dated-24.07.2023 (Annexure-'H');

(v) after the technical sanction as well as the administrative sanction given vide letter no.- 45, dated-26/07/2023 (Annexure-'I') and letter no.- 75, dated-28/07/2023 (Annexure- J), the reconstruction work of the Panchayat Bhawan in question was started;

(vi) accordingly, a notice for auction sale of iron bars, concrete and bricks of the old Panchayat Bhawan in question was issued vide memo no.-76, dated- 28/07/2023 (Annexure-'K') under the joint signature of the Mukhiya and the Panchayat Secretary, eight persons participated and the highest bid amounting to Rs. 56,864.65/- of Shree Suresh Kumar



Choudhary was declared accepted unanimously as per proceeding of that meeting (Annexure-'L').

9. As per the counter affidavit, Test Report after conducting the test of the land was submitted by the Muzaffarpur Engineering College consisting of the:

(a) the Professor In-Charge, Concrete-Lab, M.I.T. Muzaffarpur;

(b) the Professor Incharge, Consultancy Cell, M.I.T. Muzaffarpur and

(c) the Head of the Department (Civil), Civil Department, MIT, Muzaffarpur.

10. As per the letter of the Circle Officer, Parsauni vide letter no.- 999, dated 07.12.2023 (Annexure- 'O'), the Panchayat Bhawan in question was constructed prior to year 1994 which had gone dilapidated and hence decision for reconstruction of the Panchayat Bhawan in question was/were taken. Further, as per the estimate as well as in the light of its technical and administrative sanction, the cost of reconstruction of aforesaid building was estimated at Rs. 13,66,680/-(Rupees Thirteen lacs Sixty Six thousand Six hundred Eighty) only. Though, the construction work of the building has been completed but the amount spent on construction of the



Panchayat Bhawan has not been disbursed till date.

11. The aforesaid facts on record by the respondents makes it clear that in view of the fact that the old Panchayat Bhawan which was constructed prior to the year 1994 was in a very bad shape and as such decision was taken for its re-construction which followed the necessary steps/letters/orders.

12. After the administrative and technical sanction for the re-construction of the Panchayat Bhawan, the iron bars, concretes of the Panchayat Bhawan were auctioned which fetched Rs. 56,864/-. Thereafter with the help of Civil Engineers of the Muzaffarpur Engineering College, action was/were taken following which the construction took place. As per the counter affidavit, the construction work already stands completed.

13. The respondents have clarified the reason for the demolition of the old building as also for construction of new Panchayat Bhawan which according to them stands completed. We are fully satisfied with the facts stated by the respondents. The petitioner with ulterior motive and malafide intention have tried to block the said construction. We do not find any reason to entertain this Public Interest Litigation.



14. The CWJC No. 13874 of 2023 is
dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Neha/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.02.2024
Transmission Date	

