

(2003) 07 OHC CK 0025
In the Orissa High Court
Case No : Writ Petition (C) No. 6174 of 2003

Harihar Swain and Others

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 22-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Orissa Grama Panchayat Act, 1964 — Section 4(3)

Citation : (2003) 96 CLT 454

Hon'ble Judges : M. Papanna, J;A.K. Patnaik, J

Bench : Division Bench

Advocate : S.P. Misra, S.K. Mishra, S.K. Nanda, S.S. Satpathy, M.R. Dash and P. Sahu, for the Appellant; D. Das, Additional Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Patnaik, J.—The petitioners are inhabitants of Nimani Grama Panchayat and have filed this writ petition challenging the notification dated 28.5.2003 by which the headquarters of the Nimani Grama Panchayat has been located at Kalika Prasad.

2. Mr. Mishra, learned counsel for the petitioners submitted that under Sub-section (3) of Section 4 of the Orissa Grama Panchayats Act, 1964 (for short, the "Act") the office and headquarters of the Grama Sasan shall be situated within the limits of the Grama and unless otherwise ordered by the State Government in the village bearing the name of the Grama. Mr. Mishra argued that since the name of the Grama is Nimani, the office and headquarters of the Grama Sasan of Grama Nimani should have been situated in village Nimani and not in Kalika Prasad.

3. On a reading of Sub-section (3) of Section 4 of the Act, however, it appears that the office and headquarters of the Grama Sasan are to be situated in the village bearing the name of the Grama "unless otherwise ordered by the State

Government". Thus, if the State Government otherwise decided, the office and headquarters of a Grama Sasan need to be located in the village bearing the name of the Grama and for this reason, we had called upon the learned Additional Government to produce the records of the State Government for the purpose of finding out for what reasons the State Government decided to locate the office and headquarters of the Nimani Grama Panchayat in village Kalika Prasad instead of Nimani. The learned Additional Government Advocate today produced the records before us and we find that on 5.5.2003, orders were passed by the Government calling for a report from the Collector giving a specific suggestion for fixing of headquarters in any particular village. Pursuant to the said orders, the Collector submitted a report that villagers of Nimani and the villagers of the three remaining villages, i.e., Kalika Prasad, Badbhuin and Arakhapalli are bent upon the demand for fixation of Grama Panchayat headquarters in their respective villages. In the said report, it is further stated that village Nimani has got 1291 population whereas other three villages have total population of 1790, but considering the availability of the Government land, future expansion and communication facility, the headquarters of Nimani Grama Panchayat should be fixed in village Kalika Prasad. After considering the said report and also considering the fact that the village Nimani is situated at an extreme end of the Grama Panchayat, the Government passed orders on 24.5.2003 accepting the said suggestion of the Collector to fix the headquarters of Nimani Grama Panchayat at Kalika Prasad.

4. Mr. Mishra, learned counsel for the petitioner, however, submitted that pursuant to the directions of this Court in a writ petition O.J.C. No. 14774 of 2001 for consideration of representation for fixing the headquarters of the Grama Panchayat at Kalika Prasad instead of Nimani, the Commissioner-cum-Secretary to the Government in Panchayati Raj Department by his order dated 5.1.2002 had rejected the said representation after having observed that Nimani has the highest population and there are infrastructure at Nimani and there was no strong reason to change the headquarters from Nimani to Kalika Prasad and at a later stage, the Government cannot possibly take a different view and fix the headquarters at Kalika Prasad instead of Nimani.

5. We are unable to accept the said submission of Mr. Mishra. On a reading of Sub-section (3) of Section 4 of the Act we find that power has been vested in the State Government to decide the location of the Office and the headquarters of a Grama Sasan and such power can be exercised by the State Government from time to time depending upon the requirements of public interest and there is no statutory bar for the Government to reconsider and take a fresh decision in the public interest. It appears from the record produced before us that after the Commissioner-cum-Secretary Government of Orissa, Panchayati Raj Department passed the order on 5.1.2002 rejecting the representation to shift the headquarters from Nimani to Kalika Prasad, the Government had to reconsider the matter as the villagers of Kalika Prasad, Badabhuin and Arakhapalli had submitted representation to fix the headquarters at Kalika Prasad or to retain the

villages in the old Badasahara Grama Panchayat. It is on account of this representation and the grievance made-out by the villagers of the said three villages that the matter was reopened again and after thorough examination and after consideration of the report of the Collector, the headquarters of the Grama Panchayat has been fixed at Kalika Prasad instead of Nimani by the impugned notification.

6. Fixation of headquarters of a Grama Panchayat in any particular village is essentially an administrative matter and so long as relevant considerations have weighed with the Government, in fixing the headquarters in a particular village, the High Court cannot interfere with the decision of the Government like an Appellate Authority and quash the decision of the Government. While exercising power under judicial review, the High Court under Article 226 of the Constitution has only to see whether the administrative power has been exercised within the limits of law and taking into account the relevant considerations and so long as the High Court is satisfied that the power has been exercised within the limits of law after taking into account the relevant considerations, the High Court will not interfere with the same on the ground that it should have been located at a different place.

7. For the aforesaid reasons, we dismiss the writ petition.

M. Papanna, J.

8. I agree.