
(2011) 01 PAT CK 0144
In the Patna High Court
Case No : CWJC No. 8633 of 2003

Laxami Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 04-01-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 2 PLJR 276

Hon'ble Judges : Birendra Pd. Verma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Birendra Pd. Verma, J.—Heard the parties.

2. The Petitioner has approached this Court by filing the present writ petition under Article 226 of the Constitution of India, raising a grievance with respect to order dated 28.6.2003 (Annexure-4) issued by Secretary-cum-Inspector General of Registration, Bihar, Patna, as also with respect to order dated 10th July, 2003 (Annexure-5), issued by the Secretary to the Inspector General of Registration, Bihar, Patna, whereby Respondent District Collector-cum-District Registrar, Madhubani has been directed to shift the Sub-Registry Office, Benipatti from a newly constructed building within the premises of Sub-Divisional Office to the old building, where the office was earlier running.

3. Learned Counsel for the Petitioner submits that by virtue of powers conferred upon the State Government under the provisions of the Registration Act, 1908 (hereinafter referred to as "the Act" only), Office of Sub-Registrar, Benipatti was created and, accordingly, a Sub-Registrar was posted there for discharging his duty under the provisions of the said Act. It is also submitted that at the time of creation of the office of Sub-Registrar, Benipatti in the district of Madhubani, no separate building for the same was constructed and, therefore, Sub-Registry Office, Benipatti started functioning in a Government building. Thereafter, in view

of creation of Benipatti Sub-Division in the district of Madhubani, different buildings were constructed by the Government for Sub-Divisional Office at Benipatti, out of which one building was earmarked for the Sub-Registry Office, Benipatti. Subsequently, the Executive Engineer of the Building Division, Madhubani as also the Sub-Divisional Officer, Benipatti submitted their respective reports to the Respondent District Collector-cum-District Registrar, Madhubani recommending therein that Sub-Registry Office, Benipatti may be shifted in the new building constructed for the said purpose. Respondent District Collector-cum-District Registrar, Madhubani by his letter dated 14th April, 2001 (Annexure-3) wrote a letter to Respondent No. 2 seeking his administrative approval for shifting the Sub- Registry Office, Benipatti to its newly constructed building within the premises of Sub-Divisional Office, Benipatti.

4. It appears that since no formal communication was issued by Respondent No. 2 either granting administrative approval or refusing the same, the Respondent District Collector-cum-District Registrar, Madhubani passed an order in April, 2003 for shifting of the Sub-Registry Office, Benipatti from old building to its newly constructed building and, accordingly, the Office of the Sub-Registrar, Benipatti was shifted. Thereafter the impugned letters dated 28.6.2003 (Annexure-4) and 10th July, 2003 (Annexure-5) were issued directing the Respondent District Collector-cum-District Registrar, Madhubani to take steps for taking back the Sub-Registry Office, Benipatti from the newly constructed building to old one where office was earlier functioning. Hence the present writ petition.

5. Learned Counsel for the Petitioner submits that the old Government building, where Sub-Registry Office, Benipatti was functioning, is in dilapidated condition and, therefore, if the impugned orders are allowed to stand, then that may cause immense hardship to the general people of the area, besides the office staff, who are supposed to have some transactions in the Sub-Registry Office, Benipatti. According to him by virtue of interim order passed by this Court on 25.8.2003 Sub-Registry Office, Benipatti is still functioning in its newly constructed building, within the premises of Sub-Divisional Office.

6. Learned Counsel for the State has strongly opposed the prayer made on behalf of the Petitioner. He submits that the impugned letters/orders were issued in view of certain enquiries held by D.I.G. (Registration) on 19th July, 2002, wherein it was found that new building is at a lonely place and there may be some law and order problem for running the Sub-Registry office in the new building. In his submission, since the Inspector General of Registration has not granted any approval, Respondent District Collector could not have directed for shifting the Sub-Registry Office, Benipatti from its old building/premises to its new building. However, he has not disputed the fact that for about last eight years the Sub-Registry Office, Benipatti is functioning in its new building. No statement has been made even in the counter affidavit filed on behalf of the official Respondents that any law and order problem was created, after shifting of

registry office to its new building within the premises of Sub-Divisional Office at Benipatti.

7. From the materials available on record, this Court further finds that a writ petition, vide C.W.J.C. No. 6627 of 2003, (Chairman, District Vyavsayee Sangharsh Morcha, Madhubani v. The State of Bihar and Ors.) was filed before this Court challenging the action of the Respondent-authorities for shifting Sub-Registry Office, Benipatti from its old building to the newly constructed building. The said writ petition was heard by a Division Bench of this Court and was dismissed by an order dated 21.7.2003 (Annexure-D). Apparently the action of Respondent District Collector has been affirmed by a Division Bench of this Court.

8. After hearing the parties at length and after considering the materials on record, this Court is of the considered opinion that there was no valid justification for issuing the orders contained in letters dated 28.6.2003 (Annexure-4) and 10th July, 2003 (Annexure-5) directing for shifting of Sub-Registry Office, Benipatti from new building to old one. Accordingly, the directions/communications, as contained in Annexures-4 and 5 are hereby set aside. The Sub-Registry Office, Benipatti shall remain operational in a newly constructed building, where it is running for the present, unless and until some different order is passed by a competent authority in accordance with law.

9. Accordingly, writ petition stands allowed. But there shall be no order as to costs.