
(2022) 06 OHC CK 0102
In the Orissa High Court
Case No : Writ Petition (C) No. 4725 Of 2022

Minati Mohanty

APPELLANT

Vs

State Of Orissa & Ors

RESPONDENT

Date of Decision : 22-06-2022

Acts Referred:

Citation : (2022) 06 OHC CK 0102

Hon'ble Judges : Biswanath Rath, J

Bench : Single Bench

Advocate : R.K.Panda, S.Ghosh

Final Decision : Disposed Of

Judgement

Biswanath Rath, J

1. Heard learned counsel for the Parties.
2. The Writ Petition involves the following prayer :-

"Under the above facts and circumstances, this Hon'ble Court may graciously be pleased to direct the opposite party No.4, i.e., Tahasildar-cum-Revenue Officer, Remuna to allow for construction of a Culvert over the drainage canal at her own cost of the petitioner though the opposite party No.3 had given clearance for the same under Annexure-2 series which is connecting to the Village Road, vide Khata No.286, Plot No.467 in Mouza-Bampada under Remuna Tahasil in the district of Balasore for the interest of justice.

And further be pleased to issue a writ of mandamus by directing the opposite party No.4, i.e., the Tahasildar-cum-Revenue Officer, Remuna to take a decision over the application dt.7.7.2021 and the subsequent reminder representation dt.27.1.2022 which still now pending before him for consideration within a stipulated time period for the interest of justice.

And further be pleased to issue any other writ(s) or may pass any other order(s)

as this Hon'ble Court may deem just and proper..”

3. It appears, for finding inconvenience in movement of vehicles for intervention of a village Nala in the locality making the village involved uncommunicated, there has been attempt since long by the Petitioner as well as the villagers for construction of a culvert in the particular area to find vehicular movement to the village concerned.

4. Taking this Court to the document at Page-14 of the Brief, learned counsel for the Petitioner establishes that in the process of consideration of the request of the villagers, the Superintending Engineer, Drainage Division, Balasore has already communicated the Tahasildar, Remuna not only permitting construction of the culvert on the drain involved but also has given specification in the construction of box-cell drain over plot no.467. It is alleged, even after this communication was made on 20.1.2022, the Tahasildar is slipping over the matter. Finding no other remedy, the Petitioner approached this Court by filing the present Writ Petition for at least considering the inaction of the Tahasildar and if necessary, there should be permission to the Petitioner to have the construction of culvert at her own cost.

5. Mr.S.Ghosh, learned Additional Government Advocate for the O.Ps. however in his opposition to the claim of the Petitioner while not disputing to the claim of the Petitioner through Page-14 of the Brief however submits that looking to the nature of demand and the permission by the Superintending Engineer, Drainage Division, Balasore, it becomes the responsibility of the State to find provision for communication to the village concerned. Mr.Ghosh also submits, in the event the Petitioner is permitted to have the construction of the culvert at her own cost, there may not be effective construction of culvert, which may ultimately create further complications even involving normal flow of water. Mr.Ghosh, therefore, opposes the claim of the Petitioner for undertaking construction at her own cost.

6. Considering the rival contentions of the Parties and finding substantial progress in meeting with the demand of the local people in the matter of construction of culvert and drain in Mouza-Bampada under Remuna Tahasil, this Court finds from Page-14 of the Brief, there is already consideration of the case of the villagers in the matter of their demand to common village road in the particular area. In the process, the Superintending Engineer, Drainage Division, Balasore has already come to find necessity in the common village road, which issue can be meted with only by construction of a drainage canal in the form of culvert on the drain with specification of such construction. This Court finds, there is substantial progress meeting with the demand of the villagers involved including the Petitioner. For the opinion of this Court in the given contingency, it is better the construction is taken up by State Authority rather than leaving it to the individual in the village or the villagers as a whole at least to find a passage while also protecting the flow of water all through from the village Nala for all times to come.

7. In the process, in disposal of the Writ Petition while declining the request of the Petitioner to permit her to have the construction of culvert on the drain at her own cost, however taking into consideration the development taken place in the meantime through document at running Page-14, this Court directs the Tahasildar, Remuna to work out the direction given by the Superintending Engineer, Drainage Division, Balasore, vide correspondence dated 20.1.2022 and see completion of the construction of culvert and/or box-cell drain creating a road passage to Mouza-Bampada, particularly making out a road communication to private plot No.468 in the manner and specification provided by the Superintending Engineer at least within a period of six months from the date of communication of this order.

8. A free copy of this order be supplied to Mr.S.Ghosh, learned Additional Government Advocate for working out the direction of this Court.

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