

(2019) 05 J&K CK 0068

In the Jammu And Kashmir High Court

Case No : Others Writ Petition (OWP) No. 1473 Of 2011, IA No. 01 Of 2018,
2033 Of 2011, CPOWP No. 202 Of 2013

Mohd. Ayaz Sheikh And Ors

APPELLANT

Vs

State Of Jammu & Kashmir And Others

RESPONDENT

Date of Decision : 24-05-2019

Acts Referred:

Citation : (2019) 05 J&K CK 0068

Hon'ble Judges : Sindhu Sharma, J

Bench : Single Bench

Advocate : Abhimanyu Sharma, Abhinav Sharma, Ashok Bhan

Final Decision : Dismissed

Judgement

1. Petitioners in this petition seek a direction to the respondents to start the survey work of the sanctioned road from Village Tantli to Village Gurekrah in Tehsil Gandoh, District Doda and also, to start construction of the road from Village Tantli to Village Gurekrah of Teshil Gandoh, District Doda as per sanctioned plan. A direction is also sought to restrain the official respondents from starting any construction of road from Village Tantli to Village Chochloo under the Pradhan Mantri Gram Sadak Yojana (PMGSY) Scheme.

2. Facts as stated in this petition in brief are that, under the PMGSY scheme, roads are being constructed in different villages of the State of J&K, and this includes the road measuring 9 Kms from Village Changa to Village Tantli (Block Bhalessa) District Doda, which is under construction and estimated to cost 607.94 lacs rupees. It is submitted that this road was to be extended from Village Tantli to Village Gurekrah, i.e. the Panchayat Head Quarters of the petitioners and the same was sanctioned under the PMGSY Scheme at the cost of Rs.178.48 lacs of rupees.

3. Apprehension of the petitioners who are members of Panchayat Gurekrah is that even though under the PMGSY Scheme, no road was proposed or sanctioned

from Village Tantli to Village Chochloo, but some officers associated with the schemes have unduly influenced the concerned respondents 6 and 7, and accordingly, the survey for unsanctioned road was conducted from Village Tantli to Village Chochloo, and they are likely to start the construction of un-sanctioned road.

4. A resolution in this regard by the Panchayat of village Gurekrah for starting construction of 2.60 Km of road immediately was also sent to District Development Commissioner Doda, who directed respondent No.5 for construction of road as per sanctioned plan.

5. Petitioners are aggrieved of the inaction of respondents for conducting survey as well as, construction of road from Village Tantli to Village Gurekrah and also apprehend that the respondents will divert the funds sanctioned for the approved and sanctioned plan for construction of road from village Tantli to Village Chochloo, despite the fact that no road has been sanctioned for the same.

6. In their objections, respondent Nos. 1, 3 and 8 have denied that any work is being executed outside sanctioned plan as no deviation is allowed in PMGSY scheme after the project is approved by NRRDA, therefore, neither the survey nor the alignment is changed.

7. An impleadment was sought on behalf of respondent Nos. 12 to 16 who belong to village Chaner, and wanted the construction of road from Lower Gurekrah to Chaner 2.30 Km falling in Phase Y as per sanctioned plan. This impleadment was allowed vide Order dated 06.06.2018, they have placed on record approval of Government of India, Ministry of Rural Development vide order dated 05.08.2016, granting approval for the proposal of State of Jammu and Kashmir. Sanction order alongwith road list has also been placed on record. In the said list name of road shown is Lower Gurekrah to Chaner in Block Bhalessa, the land for the construction of the said road stand acquired, compensation assessed and work put to tender but they are not being executed due to this petition, thus their prayer to direct the respondents to execute the work for construction of road from Gurekrah to Chaner as per approved alignment/plan, as they are being denied the benefit of road being constructed for public purpose.

8. Construction of road from Tantli to Gurekrah for the length of 2.60 km and was sanctioned by NRRDA and subsequently the work was started as per the sanctioned alignment from Tantli to Gurekrah for the length of 2.60 for stage 1st. As the project from Changa to Tantli length 9.00 km and onwards Tantli to Gurekrah length 2.60 Km and from Gurekrah to Chaner having length 2.3 Km sanctioned by NRRDA in phase manners are in connectivity as per the necessity and topography of the site. The village Gurekrah having scattered population is being connected through this road for tail end and is only 500 mtrs aerial distance away from the road on up hill side. The sanctioned core network length Tantli to Gurekrah is 9 km out of which 2.60 km length from Tantli to Gurekrah

was sanctioned in phase seventh, beyond this the survey was not done due to the hindrance created by the inhabitants of Gurekrah at the time of preparation of DPR, so that the said project was prepared for only 2.60 km, however, now the survey has been conducted for entire total length and of the remaining length 6.40 out of total 9.00 km core network length was completed and project for the balance length of 6.40 km has been prepared and stands submitted to NRRDA for sanction in phase 11th with nomenclature Tantli to Gurekrah part 2nd. The NRRDA has approved the said project only sanction is awaited the said project will now benefit the whole area of the Panchayat Gurekrah, the project has been prepared as per the requirements of inhabitant of village Gurekrah. It is further stated that neither survey has been changed nor the work is being executed out of sanctioned plan.

9. The construction of road, otherwise, also is the job of experts, who are best judges of road routes. Keeping in view the technical feasibility and terrain, writ petition bearing OWP No.1473/2011 stands dismissed.

COA No. 202/2013 in OWP No. 1473/2011

This petition is filed against order dated 21.10.2011 passed in OWP No.1473/2011 and CMP No.2033/2011. Since OWP No. 1473/2011 stands dismissed, consequently, nothing survives in the contempt petition, therefore, the same is also dismissed.