
(2012) 08 MP CK 0028

In the Madhya Pradesh High Court

Case No : Writ Petition (PIL) No. 2573 of 2012

Nageshwara and Another

APPELLANT

Vs

District Collector State of M.P. and Others

RESPONDENT

Date of Decision : 28-08-2012

Acts Referred:

Citation : (2012) 08 MP CK 0028

Hon'ble Judges : Shantanu Kemkar, J;Prakash Shrivastava, J

Bench : Division Bench

Advocate : Sunil Jain, for the Appellant; Manoj Dwivedi, Learned Additional Advocate General For Respondents No. 1, 2 and 3/State, Shri P.R. Bhatnagar, Learned Counsel For Respondent No. 4 and Shri Yashpal Rathore, Learned Counsel for the Interveners, for the Respondent

Judgement

1. Through this petition, in the nature of Public Interest Litigation, the petitioner has alleged inaction on the part of respondents No. 1, 2 and 3 in not taking appropriate steps to probe into the matter of alleged illegal allotment and misappropriation of the Government land by the then Sarpanch of Gram Panchayat, Rajakhedi in collusion with Government and private agencies. According to the petitioners, by the aforesaid act, there is a huge loss to the State Government and to the public at large.

2. It is also the case of the petitioners that though the alleged illegal allotment made by the then Sarpanch, has been cancelled by the existing office bearers of the 4th respondent - Gram Panchayat, but no further steps, as required to have been taken, have been taken by the officials of the State Government.

3. Learned counsel for the petitioners has placed reliance on the judgment of the Supreme Court in the case of Jagpal Singh and Others Vs. State of Punjab and Others, , in which the following observations were made:

5. What we have witnessed since Independence, however, is that in large parts of the country this common village land has been grabbed by unscrupulous

persons using muscle power, money power or political clout, and in many States now there is not an inch of such land left for the common use of the people of the village, though it may exist on paper. People with power and pelf operating in villages all over India systematically encroached upon communal lands and put them to uses totally inconsistent with its original character, for personal aggrandizement at the cost of the village community. This was done with active connivance of the State authorities and local powerful vested interests and goondas. This appeal is a glaring example of this lamentable state of affairs.

15. In many states Government orders have been issued by the State Government permitting allotment of Gram Sabha land to private persons and commercial enterprises on payment of some money. In our opinion all such Government orders are illegal, and should be ignored.

22. Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal / unauthorized occupants of Gram Sabha / Gram Panchayat / Poramboke / Shamlat land and these must be restored to the Gram Sabha / Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all the State Governments / Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show cause notice and a brief hearing. Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal possession. Regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of Scheduled Castes / Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land.

23. Let a copy of this order be sent to all Chief Secretaries of all States and Union Territories in India who will ensure strict and prompt compliance of this order and submit compliance reports to this Court from time to time.

4. Today, when the matter came up for hearing, it has not been disputed by the learned counsel for the parties that now the matter is under consideration before the Sub Divisional Officer (Revenue), Mandsaur.

5. Learned Additional Advocate General submits that the Collector, Mandsaur and the Sub Divisional Officer (Revenue), Mandsaur shall consider the petitioners' grievance and shall take appropriate steps / action, as may be permissible, in accordance with law expeditiously.

6. In the circumstances, without commenting upon merits of the allegations, we are inclined to dispose of this petition with direction that the Collector, Mandsaur / Sub Divisional Officer (Revenue), Mandsaur shall look into the petitioners' grievance and shall take appropriate steps in regard to the

allegations made by the petitioners, after considering the contentions as may be raised by all the affected parties. The petitioners may submit a detail representation with supporting documents before the Collector, Mandsaur and the Sub Divisional Officer (Revenue), Mandsaur within ten days from today. On receipt of such representation, the Collector, Mandsaur / Sub Divisional Officer (Revenue), Mandsaur shall examine the same and shall take appropriate steps, in accordance with law, as expeditiously as possible, but not later than two months from the date of receipt of such representation. C. c. today.