

(2004) 03 OHC CK 0011
In the Orissa High Court
Case No : OJC No. 3945 of 2002

Pedenti Malana and Others

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 09-03-2004

Acts Referred:

Orissa Grama Panchayat Act, 1964 — Section 149, 3

Citation : AIR 2004 Ori 120 : (2004) 97 CLT 607 : (2004) 1 OLR 493

Hon'ble Judges : Sujit Barman Roy, C.J.;A.S. Naidu, J

Bench : Division Bench

Advocate : A.K. Nanda and P.K. Pathy, for the Appellant; Additional Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

A.S. Naidu, J.—This is a Second Writ Application filed by the petitioners inter alia challenging fixation of headquarters of Karlakona Grama Panchayat. By Notification dated 20.1.2001, Annexure 3 to the Writ Petition, Government of Orissa in the Panchayati Ra] (G.P.) Department in exercise of the powers-conferred by Section 3, read with Section 149 of the Orissa Grama Panchayat Act,v1964 (hereinafter referred to as "the Act") constituted a Grama in the name of Karlakona. The said Grama consisted of four villages, namely, Karlakona, Kurumpeta, Gaduaguda and Anguru. In consonance with Sub-section (3) of Section 4 of the Act, village Karlakona was declared as the official headquarters of the Grama Sasan. The said act was challenged by the petitioners and some others before this Court in OJC No. 15713 of 2001. The said Writ Application was disposed of along with several other connected Writ Applications on 10.12.2001. This Court observed :

" In some cases, the dispute is with regard to fixation of headquarters of the Grama Panchayat. Learned Addl. Govt. Advocate submits that there are guidelines for fixation of Grama Panchayat headquarters. We also find that this Court in Pramod Kumar Bohidar and Others Vs. State of Orissa and Others, has

laid down the procedure to be adopted in absence of any guideline fixed by the Government. The aforesaid decision has been followed by this Court in a recent decision in Bijay Kumar Behera and others Vs. State of Orissa and others, We, therefore, direct the Secretary to take the aforesaid decision of this Court into account while disposing of the representation."

2. In consonance with the direction issued by this Court, the Commissioner-cum-Secretary to Government, Panchayati Raj (G.P.) Department by order dated 1.2.2002 disposed of the representation filed by the petitioners and others holding that on examination of records, the District Reorganisation Committee constituted with the Collector as the Chairman, M.L.A., Tahasildar, B.D.O. and D.P.O. as Members, had considered the proposal of reorganisation of Grama Panchayats in Rayagada district and they had recommended for creation of Karlakona Grama Panchayat and that Government accepted the said recommendation. In consonance with the direction of this Court, the Collector, Rayagada was called upon to give his opinion about the demand of the villagers of Kurumpeta to fix headquarters of the Grama Panchayat at Kurumpeta instead of Karlakona and the Collector reported that there was no justification for change of headquarters from Karlakona to Kurumpeta. The Commissioner-cum-Secretary also held that at that stage change of the Grama Panchayat would dislocate the election process and accordingly dismissed the representation. The said order of the Commissioner-cum-Secretary is challenged in this Writ Petition.

3. Mr. A. K. Nanda, the learned counsel for the petitioners, relying upon the decisions of this Court reported in Pramod Kumar Bohidar and Others Vs. State of Orissa and Others, and Bijay Kumar Behera and others Vs. State of Orissa and others, forcefully submitted that there being no guidelines for fixation of headquarters, the authority concerned ought to have disposed of the representation of the petitioners in consonance with the ratio of the aforesaid two decisions of this Court.

4. For appreciating the contention of Mr. Nanda, we may refer to Section 3 of the Act which stipulates constitution of Grama and reads as follows :

"3. Constitution of Grama :

(1) The State Government may for the purpose of this Act by declaration notified in the Gazette constitute any village or group of contiguous villages as a Grama and assign to such Grama, a name which shall be of one of the villages comprised within the Grama.

Explanation : Village intervened only by forest areas, hills, streams, rivers and such other natural barriers, and lands not forming part of any village may be treated as contiguous villages : Provided that in the Scheduled Areas, a Grama shall ordinarily consist of a habitation or group of habitations, a hamlet or a group of hamlets comprising a community or communities and managing its affairs in accordance with traditions and customs.

2. Wherever the State Government deem it fit so to do they may cancel any notification in respect of a Grama under Sub-section (1) or may alter the area comprised in a Grama "by reducing or adding to the number of villages comprised within such Grama and by declaration notified in the Gazette constitute such altered area or areas as a Grama or Gramas, as the case may be, for the purposes of the said Sub-section.

3. No Grama shall, so far as may be reasonably practicable, be constituted with a population of less than two thousand and more than ten thousand but in no event shall a village be divided and a part thereof included within a Grama."

It is thus clear that the name assigned to a Grama shall be the name of one of the villages comprised within the Grama.

5. The provision for constituting the headquarters of the Grama is stipulated in Sub-section (3) of Section 4 of the Act which reads as follows :

"3. 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."

6. A reading of the aforesaid Sub-section (3) of Section 4 reveals that the official headquarters of the Grama Panchayat shall be situated in the village bearing the name of the Grama unless otherwise ordered by the State Government. Admittedly the name of the Grama Panchayat in the present case is Karlakona Grama Panchayat. According to the aforesaid Sub-section (3) of Section 4, the headquarters of the Grama Sasan should be in ordinary course situated in the village bearing the name of the Grama and that is exactly what has been done in the present case. While naming the Grama Panchayat as Karlakona Grama Panchayat its headquarters has been fixed at village Karlakona. What the petitioners desire is that the headquarters of Karlakona Grama Panchayat should be situated at Kurumpeta. Such exigency will arise only in exceptional circumstances where Government may direct to situate the headquarters in some village other than the village after which the Grama Panchayat is named. If such contingency arises, then it would be just and proper for this Court to examine whether the reasons for fixing the headquarters in a village other than the village bearing the name of the Grama Panchayat are bona fide or actuated with mala fide. In such eventuality in the decisions supra this Court stipulated the guidelines to be followed by Government. But then the ratio of the said decisions does not apply to the present case. In the present case the name of the Grama Panchayat is Karlakona Grama Panchayat and its headquarters is situated at village Karlakona, which is strictly in consonance with Sub-section (3) of Section 4 of the Act. In fact, Sub-section (3) of Section 4 stipulates the guidelines for situating the headquarters, as would be the evident on a reading of the said provision. Only when Government desires to differ from the said guidelines and passes an order for situating the headquarters of the Grama Panchayat in some other village not bearing the name of the Grama, then,

according to us, it has to follow the guidelines stipulated in the decisions *supra* and not otherwise.

7. On a reading of the notification under challenge and other materials produced before us and giving our conscientious thought, we arrive at a conclusion that the notification fixing the headquarters of Karlakona Grama Panchayat at village Karlakona does not suffer from any illegality, and the same is in consonance with the provisions of Sub-section (3) of Section 4 of the Act. We are, therefore, not inclined to interfere in the matter and dismiss this writ application.

Sujit Barman Roy, C.J.

8. I agree.