
(2009) 09 AHC CK 0188
In the Allahabad High Court

Radhey Shyam Pathak, Pradhan and Another	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 11-09-2009

Acts Referred:

Citation : (2010) 2 AWC 1258

Hon'ble Judges : R.A. Singh, J;Ashok Bhushan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R.A. Singh, J.—By means of this writ petition, the petitioners have prayed for issuing a writ of certiorari quashing the order dated 3.6.2009 issued by respondent No. 5 (Annexure-5 to the writ petition) by which the Project Manager, U.P. Projects Corporation Ltd. Lucknow has informed M/s. R.S. Constructions, Missraulia, District Ghazipur about the P.R.W. (Contractor) being appointed for construction of Gram Panchayat Sachivalaya Bhawan in village Jigna and village Sikara Kalan, Block Chhannve, District Mirzapur.

2. The brief facts giving rise to this writ petition are ; that the petitioners being Pradhans of Gram Panchayats and members of Gram Samaj Societies claim vital interest in the affairs of village and Gram Panchayats. The State Government sanctioned a project for the development of backward areas in the name of Pichhara Chhetra Anudan Nidhi in the year 2007-08 through Government order No. 1406-P-7/2-Lekha/B.R.G.F./08-09 dated 15.12.2008. A meeting was held in District Mirzapur on 26.5.2008 which was presided over by Mr. Rangnath Mishra, Hon"ble Minister, Department of Intermediate Education, Government of U.P. The District Panchayat Raj Officer, Mirzapur issued a letter dated 15.12.2008 to all Block Development Officers, the Assistant Development Officers, Mirzapur and Executive Engineer of Nagar Palika Parishad, Gram Ahraura, Chunar and Mirzapur and Nagar Panchayat Kachchawa, Mirzapur granting funds with regard to above scheme and also directed aforesaid officers to open their accounts in their respective Post Offices in compliance of Government order No.

V-2-1799/10-2008-244(57) 2008, dated 25.8.2008. It was decided on 26.5.2008 in the meeting in presence of District Magistrate and all concerned officers that all the development work and construction of Gram Panchayat Sachivalaya Bhawan would be conducted under the supervision of Gram Panchayat. The resolutions were also passed regarding Gram Panchayat, Sikara Kalan and Jigna on 26.12.2007 and 12.2.2008 at serial 92 and 95 respectively. The accounts were also opened in the name of Gram Panchayat Sikara Kalan and Jigna to be operated by the petitioners No. 1 and 2 being Pradhans of these villages under the scheme year 2007-2008 in pursuance of letter dated 15.12.2008 and the resolution dated 26.12.2007 and 12.2.2008. In view of the guidelines issued for sanctioned scheme only Gram Pradhans had right for any development and construction work of their supervision, but the respondent No. 5 illegally appointed the contractor for construction of Gram Panchayat Sachivalaya Bhawan through letter dated 3.6.2009 without the consent of the petitioners and also allotted the construction work to P.R.W. (contractor) and M/s. R.S. Constructions, Missraulia, District Mirzapur, respondent No. 6 against the Government order No. 1406-P-7/2-Lekha/B.R.G.F./08-09, dated 15.12.2008 and resolution dated 26.5.2008 as well as 26.12.2007.

3. We have heard Shri Vikas Srivastava, learned Counsel for the petitioners and learned standing counsel for the respondents and perused the record. The parties have exchanged affidavit, counter-affidavit and rejoinder-affidavit.

4. The learned Counsel for the petitioner contended that in view of the guidelines issued for sanctioned scheme of Pichhra Chhetra Anudan Nidhi (B.R.G.F.) for the year 2007-08 only Gram Pradhans had right for development and construction work in their respective Gram Panchayats under their supervision, but the respondent No. 5 completely ignored the Government order dated 15.12.2008 and the resolutions dated 16.12.2007 and 12.2.2008 (Annexure-3) and illegally allotted the construction work to the respondent No. 6.

5. The learned standing counsel for the respondents repelled the above contention alleging that in view of Government order No. 548/33-1/2009, dated 24.2.2009 with regard to preparation of scheme at local level and sanction thereof, the Government clarified the earlier Government order No. 2334/33-1-2001-111, dated 8.10.2001 under which power to Gram Panchayat for scheme upto Rs. 50,000 was delegated, but due to Gram Panchayat having no technical expertise and managing capacity to prepare and execute the bigger scheme, the Government agency would be nominated to prepare and execute the scheme of more than Rs. 50,000. In the present case, the Government of U.P. vide G.O. No. 441/33-3-2009, dated 28.2.2009 nominated U.P. Project Corporation Ltd. Lucknow for construction of Gram Panchayat Sachivalaya Bhawan in District Mirzapur.

6. We have perused the Government order dated 24.2.2009 and 28.2.2009 and found the contentions of the learned standing counsel to be correct. The Government has nominated U.P. Projects Corporation Ltd. respondent No. 5 for

construction of Gram Panchayat Sachivalaya Bhawan in district Mirzapur vide G.O. dated 28.2.2009 because the cost of the scheme is more than Rs. 50,000 and on account of lack of technical expertise and managing capacity of Gram Panchayat or its Pradhan, the supervision of the above projects has not been delegated to Gram Pradhan in view of the Government orders.

7. We further observe that the guidelines have been issued for work being supervised by the Gram Panchayat but it will not apply to this case because the construction work in dispute has been taken away from the purview of Gram Panchayat in view of above Government orders. The letter No. 1406/b-7/2-Lekha/B.R.J. 08-09, dated 15.12.2008 issued by the District Panchayat Raj Officer to all Block Development Officers and Assistant Development Officers etc; of District Mirzapur is not a Government order but it is simply a letter of District Panchayat Raj Officer to above officers.

8. In view of the above discussions, the order dated 3.6.2009 issued by U.P. Projects Corporation Ltd. Lucknow, respondent No. 6 cannot be said to be illegal, and discretionary and the same does not deserve to be quashed in view of the fact that the Government has issued its order to nominate in village Sikara Kalan and Jigna of District Mirzapur, above Government agency for construction of Gram Panchayat Sachivalaya Bhawan because the Gram Panchayats lack technical expertise and managing capacity to supervise the bigger projects. Under these circumstances, this writ petition lacks merit and is liable to be dismissed in view of the Government orders issued by the State Government. Consequently, the writ petition is dismissed. The parties shall bear their own costs.