
(2011) 03 OHC CK 0022

In the Orissa High Court

Case No : Writ Petition (C) No. 8603 of 2010

Sarpanch, Allaori G.P. and Others

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 04-03-2011

Acts Referred:

Orissa Grama Panchayat Act, 1964 — Section 4(3)

Citation : (2011) 03 OHC CK 0022

Hon'ble Judges : R.N. Biswal, J

Bench : Single Bench

Advocate : Biswanath Rath, J.N. Rath, S.K. Jethy, S.K. Mishra and B. Barik, for the Appellant; H.S. Mishra, A.S. Behera, T.K. Sahu, Addl. Govt. Advocate, for the Respondent

Final Decision : Dismissed

Judgement

R.N. Biswal, J.—Petitioner no.1 is the Sarpanch of Allori Grama Panchayat under Pallahara Block, petitioner nos.2 to 6 are ward members under the said Grama Panchayat and petitioner no.7 is a samiti member of Pallahara Block. They have filed this writ petition with prayer to quash Annexures-11 and 12 to the writ petition and to direct the opp.party no.1 to decide and declare village Bhetia as the headquarters of Allori Grama Panchayat.

2. At the time of reorganization of Grama Panchayats in the State of Orissa during the year 2001, Allori Grama Panchayat, under Pallahara Block was newly created being bifurcated from Munduribeda Grama Panchayat. The newly created Allori Grama Panchayat comprises of 8 villages. As per the writ petition, village Biralamunda is at a distance of 12 kms, Sapajhar is at a distance of 10 kms, Nuagaon is at a distance of 6 kms and Bhetia is at a distance of 3 kms from village Allori, besides there are natural barriers like hill and river in between these four villages and village, Allori. So, the inhabitants of the said four villages would face much inconvenience to go to village Allori in Panchayat work if the headquarters is fixed there. On 4.7.2006, the B.D.O. Pallahara issued work order

in favour of one Kirtan Behari Pradhan, S.I. of Schools, Pallahara to construct the G.P. building under the technical guidance of the concerned J.E. So, the Sarpanch of Allori G.P. filed W.P. (C) No.9551 of 2006 before this Court with prayer to quash the work order issued in favour of Kirtan Behari Pradhan. He also filed Misc. Case No.8424 of 2006 praying for interim stay, wherein this court on 26.7.2006 directed that if the work had not been commenced, it should not be allowed to anybody till the next date. The said writ petition is sub-judice. Again the Sarpanch of Allori Gram Panchayat filed W.P.(C) No. 144008 of 2008 before this Court with prayer to direct the Govt. to decide and declare village Bhetia as the headquarters of Allori Grama Panchayat and to construct the Grama Panchayat Building there, wherein this court vide order dated 4.3.2009 held as follows:

Considering the above submissions of the learned counsel for the petitioner, the writ petition is disposed of directing the Project Director, D.R.D.A., Angul to conduct an enquiry as was proposed to be made under Annexure-7 to the writ petition and Annexure-11 and submit his report to the appropriate authority of the Government for enabling the Government to take a final decision in the matter with regard to fixation of headquarters of Allori Grama Panchayat. The entire exercises shall be completed within a period of three months from the date of production of a certified copy of this order before the opp.party no.1 by the petitioner. It is made clear that the decision of the Government shall not be influenced on the ground that any building has already been constructed or is being constructed to be used as the office of the Grama Panchayat at any place.

3. Accordingly, the Project Director, D.R.D.A., Angul, Sub-Collector, Pallahara, District Panchayat Officer, Angul and Collector, Angul enquired into the matter jointly and submitted a report, Annexure-11, the Government and the Government after going through the report vide order dated 19.4.2010 (Annexure-12) declared that the headquarters of Allori Grama Panchayat would continue in village Allori as fixed by the Government vide Notification No. 19194 dated 20.10.2001. As stated earlier, in this writ petition, the petitioners have prayed to quash Annexure-11 and the decision of the Government under Annexure-12.

4. Learned counsel for the petitioner submitted that because of long distance and geographical barrier between the four villages in question and village Allori, the members of the Allori Grama Panchayat passed a resolution on 18.11.2002 vide annexure-2 holding that the headquarters of Allori Grama Panchayat should be fixed at Bhetia and communicated it to the sub-Collector, Project Director, DRDA and Collector concerned so as to take steps for fixation of headquarters at Bhetia. On 26.8.2008 a similar resolution was also passed. According to learned counsel for the petitioner, when majority of the inhabitants of Allori G.P. want that the headquarters should be fixed at Bhetia as ordained in the case of Malpe Vishwanath Acharya and Others Vs. State of Maharashtra and Another, , it should be fixed there. All these factors have not been considered in Annexure-11 and

without proper enquiry the Government fixed the headquarters of Allori G.P. at Allori, as such both Annexures-11 and 12 deserve to be quashed.

5. Learned counsel appearing for the opp.parties contended that as per Section 4(3) of the Orissa Grama Panchayat Act, ordinarily the office and headquarters of the Grama Sasan should be situated in village bearing the name of the Grama. In the case at hand, admittedly, the name of the Grama Panchayat is after the name of village Allori. So the office and headquarters should be established in the said village. They further contended that admittedly four villages namely Biralamunda, Sapajhar, Nuagaon and Bhetia are separated from the rest of the villages of Allori Grama Panchayat by a river. So, if it would be difficult for the inhabitants of the said villages to go to Allori, the same difficulty would also be faced by the inhabitants of other villages under the said G.P. to go to Bhetia, if the headquarters is fixed there.

6. Learned counsel for the opp.parties further contended that the distance of the four named villages from the village Allori, as given in the writ petition and under Annexure-1 series is not correct. They also dispute the signature of some of the ward members given in the resolution under Annexure-2. It was further argued on behalf of the opp.parties that even if it is held that out of 13 ward members, seven ward members have signed on the resolution supporting fixation of headquarters of Allori Grama Panchayat at village Bhetia, it can not be said that majority of the inhabitants of Allori G.P. want it. When the Government has decided that the headquarters of Allori Grama Panchayat should be situated at village Allori., it being an administrative order, this court should not interfere with it, particularly since there is nothing to show that the Govt. thereby violated any law or acted arbitrarily. So, according to the learned counsel for the opp.parties the writ petition should be dismissed.

Section 4(3) of the Orissa Grama panchayat Act reads as follows :

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.

According to this provision ordinarily the headquarters of the Grama Panchayat should be fixed in the village bearing the name of the Grama. In appropriate case, it can be fixed in some other village. So in ordinary course Allori should be the headquarters of Allori Grama Panchayat. Now it is to be seen whether there is any special reason to establish the headquarters of Allori Grama Panchayat at village Bhetia. The distance of the four villages in question from village Allori as given by learned counsel for the petitioners has been stoutly denied by learned counsel for the opp.parties. On perusal of the writ petition, it is seen that the distance of village, Biralamunda from Allori is self contradictory. In para-6 it has been stated that the distance between those two villages is 15 kilometers, whereas in para-22, it has been shown as 12 kilometers. So, it is not safe to believe the distance of the four villages in question from village Allori as given in

the writ petition, particularly when the opp.parties vehemently oppose it. As found from the joint enquiry report under Annexure-11 chhelikhai Nala intercepts the villages of Allori Grama Panchayat, five in one side including village Allori and the agitating four villages on the other side. This report of Project Director, D.R.D.A. reveals that during rain when the Nala is in spate, the villagers have to travel around the way to reach the G.P. headquarters. On the other hand, Munduribeda is conveniently accessible to the villagers of four villages in question. Thus, he has suggested to move the Government for re-inclusion of those four villages with the mother Gram Panchayat, Munduribeda. In fact if four villages in question are separated from rest of the villages of Allori G.P. by Chhelikhai Nala and during rainy season the inhabitants of those four villages would go to Allori around the way, then the same difficulty would be faced by inhabitants of the rest villages to go to Bhetia if the headquarter is fixed there. Only because a resolution has been passed that the headquarters of Allori G.P. shall be fixed at village Bhetia, it does not necessarily mean that Government ought to have agreed to it. In the case of Smt. Babita Negi and Others Vs. State of Orissa and Others, , a division bench of this Court held that the resolution of a Grama Panchayat can not form the basis for decision of the Government to change the headquarters of a Grama Panchayat. So the resolution under Annexure-2 can not be the basis of change of headquarters of Allori Grama Panchayat. As such there is no any special reason to establish the headquarters of Allori Gram Panchayat at village Bhetia. The decision in the case of Malpe Vishwanath Acharya (supra), it has been held that law should be just to all sections of the society, it should not be unjust to one and give disproportionate benefit to the other. This decision would of no help to the petitioner in the present case. The Government has rightly ordered under Annexure-12 to establish the headquarters of the Allori Gram Panchayat at Allori,

7. Accordingly, the writ petition stands dismissed. No cost.