
(2014) 12 DEL CK 0321

Delhi High Court

Case No: Writ Petition (Civil) 3201/2014 and CM No. 6659/2014 (for stay)

Gaon Sabha Libaspur
Welfare Association

APPELLANT

Vs

Govt. of NCT of Delhi

RESPONDENT

Date of Decision: Dec. 10, 2014

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2014) 12 DEL CK 0321

Hon'ble Judges: G. Rohini, C.J; Rajiv Sahai Endlaw, J

Bench: Division Bench

Advocate: Vikramjit Saini, Advocate for the Appellant; Amitabh Marwah, Advocate for the Respondent

Judgement

Rajiv Sahai Endlaw, J.

This petition under Article 226 of the Constitution of India, filed as a Public Interest Litigation (PIL), impugns the allotment of Khasra Nos. 23/21, 24/25, 31/1 and 31/10 of village Libaspur, District North-West by the Director (Panchayat), Government of National Capital Territory of Delhi (GNCTD) vide letter dated 7th July, 2012 to the Directorate of Education and seeks a direction to the respondent GNCTD to, out of the aforesaid land leave out land in Khasra Nos. 23/21 and 24/25 ad-measuring 7 Bighas and 7 Biswas for construction of Multi Purpose Community Centre (MPCC).

2. It is the contention of the petitioner, claiming to be working for the benefit and upliftment of village Libaspur and its residents, that:

(i) There is no Community Centre for the purpose of social as well as personal gatherings and celebratory functions for the residents of village Libaspur.

(ii) The residents of the village had been representing therefor and submitted a proposal for construction of a MPCC on the aforesaid land admeasuring 7 Bighas and 7 Biswas in

Khasra Nos. 23/21 and 24/25 belonging to the Gaon Sabha of the village and the said land was earmarked for the said purpose and field inspection and other formalities were complied with and the land was made available for the purpose of MPCC by the Gaon Sabha.

(iii) The Revenue Department of the GNCTD also permitted the same and also approved funds of Rs.66.64 lacs for construction of boundary wall for the purpose of MPCC vide File No.FN.F9/Misc./PDRD/09-10/5560 dated 19th January, 2011.

(iv) The project of construction of the MPCC over the said land was also approved by the Block Development Officer (BDO) of the concerned area.

(v) In the last week of August, 2013, the work of construction of boundary wall of the said land was commenced and the villagers thought that the same was being done for the purpose of MPCC.

(vi) However, subsequently, one signboard of the said construction work being for Government Girls School was put up and wherefrom the local residents for the first time came to know that the construction of a girls school on the said land was underway.

(vii) The residents of the village on enquiry learnt that the Lieutenant Governor, Delhi had directed the Director (Panchayat), GNCTD to allot 16 Bighas of land to the Directorate of Education, GNCTD and on the directions of the Director (Panchayat), GNCTD, the land in Khasra Nos. 23/21, 24/25, 31/1 and 31/10 was allotted to the Education Department vide letter dated 7th February, 2012.

(viii) The petitioner represented against the use of the land meant for MPCC for the purpose of a girl school but to no avail.

(ix) While there is no such Community Centre in village Libaspur and surrounding areas, there are many schools for boys and girls in the area of village Libaspur.

Accordingly, besides the reliefs aforesaid, relief also of restraining the work of construction of the Government Girls School on the aforesaid land is claimed.

3. The petition was entertained and notice thereof issued.

4. The BDO (North) of the GNCTD has filed a counter affidavit, pleading that:

(a) The land in Khasra Nos. 23/21 (4-16), 24/25(2-7), 31/1 (4-15) and 10(4-2), total 16 Bighas was recorded in the name of the Gram Sabha of village Libaspur in the Revenue Records.

(b) A request was received from the MLA of the area for earmarking 7 Bighas and 3 Biswas of the aforesaid land in Khasra Nos. 23/21 and 24/25 for a Community Centre.

(c) Accordingly, a proposal was made and construction of the boundary wall commenced.

(d) However there were protests from the residents of the area as the proposed Community Centre was appurtenant to a Government Boys Secondary School and both have common boundary.

(e) There are four Choupals / Panchayat Ghars already constructed in village abadi of Libaspur for the purpose of community activities.

(f) On the contrary, there is no school for the education of girls in village Libaspur.

(g) In the circumstances, it was decided that a Government Girls School should be constructed for the purpose of promoting education of girls in village abadi of Libaspur.

(h) The said proposal was also supported by the local residents.

(i) Accordingly, the land aforesaid was allotted to the Education Department and possession of the land also handed over and construction of the boundary wall completed.

(j) The construction of the School is in general public interest rather than being prejudicial thereto.

(k) On the contrary, construction of a MPCC on the said land would be prejudicial to the adjoining Government Boys Secondary School.

(l) Otherwise, village Libaspur is fully built up and the area is a developed colony as well as industrial area and there is no other land available for a girls school.

(m) There was no official decision for construction of MPCC on the said land but only a proposal.

5. The petitioner has filed a rejoinder, generally denying the contents of the counter affidavit and reiterating the contents of the petition but not expressly denying the contents of the counter affidavit duly supported by documents.

6. We have heard the counsel for the petitioner who has reiterated the pleadings.

7. The counsel for the respondent No. 1 GNCTD has handed over further documents to show that since the approval of the design and construction of the school building on the aforesaid land was likely to take time, as an interregnum measure 20 SPS rooms have been constructed on the land to enable the Girls Senior Secondary School to start. He has also handed over photographs showing the structure existing of Adarsh Senior Secondary School to demonstrate that the said land is adjacent thereto.

8. The petitioner, though bearing a name of Gaon Sabha of Libaspur but is not the Gaon Sabha of Libaspur which could be said to be the representative of the residents of the said area. In fact, it is not even a welfare association of the residents of the said village, though claims to be working for their welfare and having filed this petition for the benefits of the residents of the village. We have, as such to determine whether the petitioner actually represents the interest of the residents of the village Libaspur, enquired from the counsel for the petitioner as to what is the approximate population of the said village and how many residents of the village are the members of the petitioner Society.

9. The counsel for the petitioner though unable to give even approximately the population of the said village, informs that there are only 15 members of the petitioner Association and who are all residents of the said village.

10. To say the least, the petitioner cannot be said to be representative of the residents of the said village. In fact, we entertain doubts whether the said 15 persons are acting in the interest of the village and its residents or out of their own personal considerations.

11. We have no reason to doubt the averments in the counter affidavit of the respondent GNCTD that the proposal for construction of a MPCC on the said land was opposed by the residents and that construction of a Government Girl School on the said land is in the interest of the public. After all, it is the Gaon Sabha and the Government which is representative of the interest of the residents of the village and a busybody like the petitioner cannot be permitted to come in the way of such public projects.

12. We therefore do not find any merit in the petition and dismiss the same with costs of Rs.10,000/- payable to the GNCTD within one month of today.