

(2012) 07 JH CK 0094

Jharkhand High Court

Case No: Writ Petition (PIL) No. 167 of 2012

Prayag Prasad Mandal

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: July 31, 2012

Citation: (2013) 1 AJR 45 : (2012) 3 JCR 647

Hon'ble Judges: Prakash Tatia, J; Jaya Roy, J

Bench: Division Bench

Advocate: P.K. Jha, for the Appellant;

Judgement

1. The petitioner by this writ petition has raised objection that earlier a site was selected for construction of Panchayat Bhawan and for that purpose a meeting of Gram Sabha was held wherein this decision was taken. The said site was selected after obtaining the report about the land and in check slip it was clearly mentioned that the land is fit for construction of Panchayat Bhawan. Thereafter, according to Learned Counsel for the petitioner construction was started, photographs of which is placed on record. It is further submitted that all of a sudden because of the influence of some persons, the decision was changed at the back of the villagers and the site has been shifted to another place. It is also submitted that the measurement book (Annexure 6) was also issued to the Engineer concerned, which clearly indicate that the construction on the site was raised at Government expenses after taking a decision by application of mind and that decision has been changed because of the unauthorized influence. Learned Counsel for the State submitted that subsequent to that decision it was found that the land in question was forest land and that is also recorded as forest land in the records of right, copy of which has been placed as Annexure-A to the counter affidavit filed by the State. Hence, a decision was taken to shift the site to another place. It is also submitted that construction was not raised by the Department and no amount has been spent by the Government for those constructions. It is submitted that some other persons

may have raised that construction.

2. The stand of the State, so far as raising of the construction by other persons, appears to be strange. *Prima facie*, it appears to be a false plea. There may be some error of judgment in identification of land and there may be possibility that initially the land which was selected was forest land.

3. Be that as it may be, since there is a report in check slip itself that the land is fit for construction of Panchayat Bhawan and there are materials on record showing that the said land was fit for construction. There is material on record in the form of measurement book which may indicate that construction may have been done by the department itself and to save someone this plea may have been taken that construction has not been done by the department, the payment of which either may have been made by the Engineer-in-charge or the contractor under whose supervision the construction was made. However, the matters requires be enquired into departmentally.

4. Hence, the State is directed to hold an enquiry with respect to the issues; who is responsible for selecting wrong land, who is responsible for undertaking the construction and who has filed the wrong affidavit in this Court with respect to the fact that no construction has been done on the site in question. Therefore, the Department may initiate a departmental proceeding against the guilty person and if they found guilty, the same may be punished.

5. However, so far as the construction on the new proposed site is concerned that may be go on in view of the fact that earlier selected land was forest land. With the above observations and directions, this writ petition is disposed of.