

(1994) 42 BLJR 290 : (1995) 1 PLJR 153

Patna High Court

Case No: C.W.J.C. No. 6699 of 1993

Balram Singh

APPELLANT

Vs

The State of Bihar and
Others

RESPONDENT

Date of Decision: July 29, 1993

Citation: (1994) 42 BLJR 290 : (1995) 1 PLJR 153

Hon'ble Judges: S.B. Sinha, J; R.N. Prasad, J

Bench: Division Bench

Judgement

S.B. Sinha and R.N. Prasad, JJ.

The petitioner in this application has questioned the authority of the District Magistrate, Gopalganj and the Deputy Development Commissioner, Gopalganj in issuing the letter dated 5-2-1993 and 14-4-1993 as contained in Annexures-3 and 4 to the writ application respectively.

2. The petitioner is said to be the mukhia of Jhingna Gram Panchyat. The Scheme under the Jawahar Rojgar Yojana was framed by the Central Government and Executive instructions have been issued with regard to the manner in which schemes thereunder have to be executed. In terms of the said policy decision, the mukhia along with Panchyat Sevak can issue cheques to the agent appointed for the implementation of the Scheme in question.

3. Allegedly, a Panchyat Bhawan was built on plot No. 757 situated at village Badarzimi or Mirganj Block which was later on collapsed. A notification was later on issued extending the territorial jurisdiction of Mirganj notified area Committee to the land over which the Panchyat Bhawan was built. A Panchayat Bhawan was resolved to be built by the competent body. However, by reason of the impugned order dated 5-2-1993 the District Magistrate has directed that the said Panchyat Bhawan should be repaired instead of constructing a new Panchyat Bhawan. It was further stated in the said letter that as the mukhia had used bricks inferior quality and in spite of direction, he used the

same, the Block Development Officer was directed to implement the scheme till some arrangement was made. According to the petitioner, no notice to show cause was issued to him or the agent. Subsequently, the Deputy Development Commissioner also intimated to the Block Development Officer, that the District Committee confirmed the authority earlier given to him for implementation of the scheme under the Jawahar Rojgar Yojna.

4. It has been held by this Court in a number of decisions that the Jawahar Rojgar Yojna is merely a policy decision formulated by the State of Bihar which does not have the force of law. Further in terms of the said scheme itself, various supervising agents have been nominated. The Block Development Officer as also the Deputy Development Commissioner of the District Magistrate are also the supervising authorities. They have, under certain circumstances, the power or authority to direct that the Scheme instead of being implemented in the manner laid down therein should be implemented through the Block Development Officer. Reference in this connection may be made to *Graw Panchyat Saitha and Anr. v. The State of Bihar and Ors.* reported in 1993 (1) PLJR 10

5. It is now well settled that unless there is an allegation of arbitrariness, this Court will not interfere with any such order passed by the District Magistrate as the mukhia does not have any legal right to issue the chscjue to the agents along with the Panchyat Sevak.

6. In this case admittedly, same allegations as against the mtikhto with regard to the implemenation of the Scheme, have been made, we in exercise of our writ jurisdiction cannot go into such disputed questions nor it is permissible for us to interfere therewith unless any illegality, irregularity or irrationality in passing the order by the competent Authorities is demonstrated.

7. However, so far as the matter relating to construction of Panchyat Bhawan is concerned, the same is governed by the Gram Panchayat Miscellaneous, Rules. Rule 3 of the said rules reads as follows :

Locating of Panchyat Officer.--(1) the Officer of a Panchyat shall be located at the Panchyat Bhawan of the Panchyat :

Provided that if any Panchyat has not got its on Panchyat Bhawan the office of the Panchyat shall be located at such a place in the Panchyat area as may be unanimously decided in a meeting of the Mukhia, the members of the Executive committee, the Sarpanch and the Panches convened for the purpose and presided over by the District Panchyat Officer :

Provided further that if there is a difference of opinion regarding the selection of a place where a Panchyat Bhawan should be located, a decision may be taken by putting the matter to vote in which the District Panchyat Officer shall not have right to vote and incase of equality of votes, the mukhia shall have second or casting vote.

(2) The District Panchyat Officer shall inform the Sub-divisional Magistrate and the District Magistrate about the place selected for locating a Panchyat Bhawan.

(3) A decision regarding the location of "Panchyat Bhawan" under Sub-rule (1) shall be final and no appeal shall lie against such decision.

8. The State of Bihar has also issued directions from time to time with regard to the construction of the Panchyat Bhawan at the headquarters of the Panchyat, the place where the Panchyat Bhawan is situated lies now within the Mirganj Notified area Committee, a new Panchyat Bhawan should be directed to be constructed, if other conditions are satisfied by the State of Bihar from time to time.

9. This aspect of the matter should be considered by the authorities under the said rules namely the Committee mentioned under Rule 3 aforementioned. The District Magistrate, should pass necessary orders in relation thereto.

10. This application is disposed of with the aforementioned directions.