

Mohd. Karim UddIn and ors. Vs. State of Bihar and ors.

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Court : Patna

Decided On : Jul-29-1993

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

Appeal No. : Civil Writ Jurisdiction Case No. 6134 of 1993

Appellant : Mohd. Karim UddIn and ors.

Respondent : State of Bihar and ors.

Judgement :

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

1. This application is directed against an order dated 3-8-1991 issued by the Collector, Begusarai (respondent No. 3) whereby the B.D.O., Matihari (respondent No. 3) has been directed to conduct the work of Jawahar Rojgar Yogna of Mahandrapur and Bagdob Gram Panchayat and the account of the concerned Gram Panchayat was directed to be operated under the joint signature of respondent No. 5 and the Panchayat sewak of the concerned Gram Panchayat. It has further been prayed that a writ of or in the nature of mandamus be issued directing the respondent No. 3 to implement the Gazette notification dated 25-1-1991 with a further direction to respondent No. 2 to take steps for bifurcation of the Gram Panchayat, namely Gorgama.

2. The facts of the matter are as follows ;

The petitioners were the residents of Mhendrapur Gram Panchayat. The said Gram Panchayat was constituted under Section 3 (1) of Panchayat Raj Act by a notification dated 13-9-1960. In the year 1979-80 the entire village Mahendrapur was submerged in the bed of river Ganga because of changes of its course and the inhabitants of the said village were settled in different villages namely, Dariapur, Kashimpur and Balahpur. The number of the residents of the said village was 12000 (twelve thousand) out of which 8200 settled in Gorgama Panchayat and the rest in Balahpur Gram Panchayat. According to the petitioners all the four villages of Mahendrapur Gram Panchayat are now uninhabited which would appear from Annexure-3 to the writ application.

3. The District Panchayat Raj Officer, Begusarai, has also submitted a report in this connection on 19-10-1983. Similar report dated 9-8-1985 was also submitted by the Block Development Officer. The Deputy Panchayat Raj by letter dated 6-12-1986, as contained in Annexure 6 to the writ application directed that the inhabitants of Mahandrapur who have rehabilitated in other Grampanchayat be included in the Voter's list of the Panchayats concerned where they have rehabilitated. A proposal had also been sent for alteration of the local limits of the jurisdiction of Mahendrapur Gram Panchayat but the same had not been done. The Deputy Director, Panchayat Raj also by letter dated 27-10-1987 sought for some information from the District Panchayat Raj Officer about the date of notification in the official Gazette and the said information was supplied on 11-12-1987, however, Mahendrapur Gram Panchayat has not yet been denotified.

4. The District Panchayat Officer sent a letter dated 6-6-1989 to the Director, Panchayat Raj, Bihar, Patna demanding allotment of fund under Jawahar Rojgar Yojna on the ground that they are entitled to receive the said amount. Whereupon, the Deputy Director, Panchayat Raj by his letter dated 26-8-1989 asked him to furnish necessary informations. The said letter was also forwarded by the District Panchayat Raj Officer who by his letter dated 13-8-1989 supplied the informations. However, the Director, Panchayat Raj by his letter dated 11-4-1990 intimated that it has been decided to stay the steps of denotifying the Mahendrapur Gram Panchayat,

5. A writ application, was thereafter filed in this Court being C.W.J.C. No. 7774 of 1990 which was disposed of by an order dated 6-2-1991 wherein the following observations were made:

We expect that the Authorities who are incharge for allotting fund for the Jawahar Rojgar Yojana will certainly keep in mind that question of allotment of fund does not arise for the village where no people reside. The District Magistrate, Begusarai will keep this position in mind and see that there is no improper allotment or diversion of fund of the Jawahar Rojgar Yojana for the said villages and for other village situated likewise.

6. It has been contended that by a notification dated 23-1-1991 Mahendrapur Grampanchayat has been denotified which has been published in the Gazette of 20th March, 1991, However, according to the petitioner, despite the order passed by this Court in the aforementioned writ application, respondent No. 3 has asked respondent No. 5 to conduct the work of Jawahar Rojgar Yojna of Mahadrapur Grampanchayat and directed the bank to the affect that the account of the concerned Gram Panchayat would be operated under the joint signature of respondent No. 5 and Gram Sewak. The petitioners protested to the said letter by their application dated 19-5-1992. Although the Collector had forwarded the application to respondent No. for necessary fiction but respondent No. 4 had requested respondent No. 2 to send the original copy of the Gazette notification and thereafter no further step has been taken.

7. The grievance of the petitioner is that in this situation, the impugned order as contained in Annexure-1 to the writ application must be held to be wholly arbitrary.

8. It is unfortunate that despite the order of this Court passed in C.W.J.C. No. 7774 of 1990 as also the notification dated 23-1-1991, published in the Bihar Gazette of 20th March, 1991, which are contained in Annexures 13 and 2 respectively to the writ application passed the impugned order as contained in Annexure-1. The fund allotted under the Jawahar Rojgar Yojna is to be spent in implementation of the Scheme which would be beneficial to the inhabitants of the Gram Panchayat. As the Mahendrapur Gram Panchayat is non-existent as it was submerged in water the question of carrying out any scheme under the Jawahat Rojgar Yojna does not

and cannot arise.

9. It is really unfortunate that the respondents have failed to take any steps for bifurcating the Gram Panchayat. The respondents are duty bound to implement the Gazette notification dated 25-1-1991 and act in terms thereof. They are also bound by the provisions of the Bihar Panchayat Raj Act.

10. The Director, Panchayat Raj, Bihar, Patna as also the Collector Begusaraj are hereby directed to see that the public funds are not infused and Jawahar Rojgar Yojna is not implemented in a non-existent village. The Director/Secretary of Bihar Panchayat Raj is also hereby directed to take steps for bifurcation of the said Gram Panchayat, if it is permissible in law.

11. The Director/Secretary Panchayat Raj is also directed to pass necessary orders keeping in view the facts and circumstances of this case. The Collector Begusarai shall forthwith send all the records in connection with the matter to the Director/Secretary, Gram Panchayat Raj, Bihar, Patna who shall also place the matter before the Hon'ble Minister of Panchayat Raj so that necessary orders in accordance with law may be passed at an early date.

We hope and trust that the Minister of Gram Panchayat Raj shall see to it that the public money is not misutilised.

12. Till a decision is taken in the matter, the order as contained in Annexure-1 to the writ application should not be given effect to.

13. This application is disposed of with the aforementioned directions/ observations.

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