

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1548 of 2024

Petitioner :- In Re: Restoration Of Community Health Centre

Respondent :- State Of UP And 7 Others

Counsel for Petitioner :- Muktesh Kumar Singh

Counsel for Respondent :- C.S.C.,Rameshwar Prasad Shukla

Hon'ble Saurabh Shyam Shamsbery,J.

1. In the present public interest litigation this Court passed following order on 21.10.2024:

“1. The Court takes note that petitioner has filed present public interest litigation only for stopping construction of Panchayat Bhawan without making prayer that existing Community Health Centre be restored and starts working, therefore, petitioner is discharged.

2. In aforesaid circumstances, the Court takes suo motu notice of larger issue and appoints Sri Pawan Kumar Singh, A/P 1310/2017 (Mob. 7054291777) and Sri Jaideep Kumar Singh, A/J 0802/2024 (Mob. 8182016911) as Amicus Curiae and Court Commissioner to inspect the place in dispute in Village Panchayat Alauddinpur, Block and Tehsil-Mohammadabad Gohna, District Mau that why the building of Community Health Centre of concerned Village Panchayat was partially demolished to construct and Panchayat Bhawan and why the said Community Health Centre is not working for last many years and what steps are required for its functioning. They will submit their report by the next date of hearing. Sri Muktesh Kumar Singh, learned counsel for petitioner will also assist the Court.

3. This public interest litigation is now be titled as “**In Re: Restoration of Community Health Centre, Village Panchayat Alauddinpur, Block and Tehsil-Mohammadabad Gohna, District Mau.**”

4. For a period of two weeks from today, construction of Panchayat Bhawan in Village Panchayat Alauddinpur, Block and Tehsil-Mohammadabad Gohna, District Mau shall be kept in abeyance.

5. Pradhan of Village Panchayat Alauddinpur, Block and Tehsil-Mohammadabad Gohna, District Mau is directed to deposit Rs. 5,000/- in the bank account of Gram Sabha concerned, receipt of which shall be placed on record by the next date of

hearing, since he has not provided specific instruction to counsel for Gaon Sabha as well as he has not taken any steps to restore the working of Community Health Centre and has also failed to undertake the functions as provided under Section 15 of U.P. Panchayat Raj Act, 1947.

6. Put up on 04th November, 2024 as a first case.

7. Gaon Sabha concerned shall pay Rs. 11,000/- to Sri Pawan Kumar Singh and Sri Jaideep Kumar Singh, Advocates to work as Court Commissioner.

8. On the next date of hearing Pradhan of Village Panchayat Alauddinpur, Block and Tehsil-Mohammadabad Gohna, District Mau and Tehsildar concerned shall remain present in Court.

9. Registrar (Compliance) to take steps.

10. Registrar (Listing) is also directed to take steps for compliance of this order.”

2. Today a personal affidavit of Smt. Shama Parveen, Pradhan, Village Panchayat Alauddinpur, Block and Tehsil Mohammadabad Gohna, District Mau, i.e., Respondent-8, is filed in Court, which is taken on record. She is also present in person.

3. In compliance of above order dated 21.10.2024, Sri Pawan Kumar Singh and Sri Jaideep Kumar Singh, Amicus Curiae and Court Commissioner, have placed a report, which is also taken on record. Relevant part of report of Amicus Curiae is reproduced hereinafter:

“Since this Hon'ble Court has directed to make it clear as to why the building gone in dilapidated conditions the visible reasons are being given as below:-

(a) The proper care and attention was not given to the Jachcha Bachcha Kendra by the authorities and the persons at the helm of affairs.

(b) The building was not given proper and timely white washing and painting as such the continuous exposure to the sun and rain caused molding and fissures in the wall.

(c) It appears that sippage of water from the roof and wall caused the deteriorating situation to the building.

(d) One of significant reason for the deteriorating situation of building was that there was no proper sanitation as a result in rainy season there was water logging causing damage to the building.

(e) The authorities and functionaries might be failed to report timely about the maintenance and repair of the building nor any attempt was made to make a demand of fund for repair and maintenance of building.

(f) The possibility of administrative apathy and slackness of authorities of gram Panchayat cannot be ruled out.

We have interacted with the residents of the village who have shown their keen interest to get the Jachcha Bachcha Kendra reconstructed and restored as they have to travel around 7 to 10 Kilometers for medical care and health issues of women and children as such certain viable suggestions came across for the resolution of the problem of the villagers and restoration of Jachcha Bachcha Kendra the same are being encapsulated below:-

Suggestions:-

1. The village Panchayat should pass a resolution for the reconstruction and renovation of Jachcha bachcha Kendra in the village Panchayat Allauddinpur being the autonomous body to take care and manage the health care centre for the village Panchayat.
 2. Once the such a resolution is passed by the village panchayat the intention of the village panchayat should be duly communicated to the higher authorities of the Panchayat Raj and also to the health department and request should be made to make a provision for the fund for this designated work.
 3. The administrative authorities of the district and the health department should make a joint effort to allocate the fund for the construction of the Jachcha Bachcha Kendra in time bound manner.
 4. On being the allocation of the fund the Jachcha Bachcha Kendra should be constructed under the supervision of the abled bodies and with the help of skilled engineer and efficient workers.
 5. On completion of the Kendra it should be dedicated to the villagers and the skilled Asha workers nurses and doctor should appointed over there.”
4. Smt. Shama Parveen, Pradhan, who is present in person, has submitted that she is undertaking functions of Pradhan and has communicated concerned authorities of Health Department for restoration of Community Health Center/ Jaccha Baccha Kendra, which is admittedly not in use for last about eight years (constructed way back in the year 1987).
5. I have carefully perused the personal affidavit of Pradhan concerned, however, there is no document in the form of resolution or letter for restoration of said Community Health Center/ Jaccha Baccha Kendra, except a prayer to demolish it being in dilapidated condition.

6. Sri Alok Ranjan Singh, Tehsildar, Tehsil Mohammadabad Gohna, District Mau, is also present in person and he submits that on basis of resolution, a land which is of the nature of Abadi can be used by Gaon Sabha for construction of Panchayat Bhawan. The earlier reserved place for construction of Panchayat Bhawan was not sufficient in terms of minimum required area for said construction, therefore, part of land in question was proposed for construction of Panchayat Bhawan and construction has also started. Tehsildar has not disputed that Community Health Center/ Jaccha Baccha Kendra is in dilapidated condition and it is not in use for last about eight years. There is a Health and Wellness Center situated nearby, which has now been used for medical purpose. However, it is not denied that in case the building of Community Health Center/ Jaccha Baccha Kendra is renovated, it will further facilitate for medical purpose of villagers, i.e., for pregnant women.

7. In view of above, the Court is of the considered opinion that neither earlier Pradhans nor present Pradhan have taken any steps for renovation of Community Health Center/ Jaccha Baccha Kendra and there is no resolution of Gaon Sabha concerned in this regard on record. The contents of letter of present Pradhan is only for demolition of building and not to restore it for use. An averment made in para 12 of personal affidavit, therefore, is contrary to record.

8. The Court is further of considered opinion that vacant land of Abadi may be utilized for construction of Panchayat Bhawan but it cannot be on the cost of any other building for public utility. It is very unfortunate that earlier Pradhans and even present Pradhan have not taken any steps for renovation of Community Health Center/ Jaccha Baccha Kendra and even the Health Department of State has remained lethargic towards it.

9. In aforesaid circumstances, the Court appreciates the suggestions given by Amicus Curiae, which have already been reproduced hereinabove.

10. In view of above and taking note of entire facts and circumstances of case, the present public interest litigation is **disposed of** with following directions:

- (a) Health Department of State will take steps for renovation of building, which is in dilapidated condition and was earlier used as Community

Health Center/ Jaccha Baccha Kendra, if its utility still exist, i.e., even after existence of Health and Wellness Center and for that a comprehensive study be undertaken by District Magistrate, Mau and Chief Medical Officer, Maum which also includes suggestion of villagers. This exercise shall be completed within four weeks from today and appropriate decision thereon be taken within two weeks thereafter.

(b) The construction of Panchayat Bhawan shall not cause any hindrance for ingress or outgress of the area on which the present building of Community Health Center/ Jaccha Baccha Kendra is situated and if necessary modification may be made in the map of construction of Panchayat Bhawan.

(c) Further construction of Panchayat Bhawan shall be commenced only after District Magistrate, Mau and Chief Medical Officer, Mau will give its report, i.e., there will be no construction of Panchayat Bhawan for atleast six weeks from today.

(d) The authorities/ concerned Panchayat will take further action on basis of the report.

11. The Court appreciates the endeavour made by both Amicus Curiae. It is informed that they have been paid in terms of order passed by this Court.

12. A copy of this order be sent to District Magistrate, Mau; Chief Medical Officer, Mau; Principal Secretary, Health, U.P., Lucknow; and; Director, Panchayat Raj, U.P., Lucknow for compliance.

13. Registrar (Compliance) to take steps.

Order Date :- 4.11.2024

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