



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPPIL No. 37 of 2023**

Piluram Nirmalkar S/o Shri Banshi Lal Nirmalkar Aged About 42 Years
The President Of Rural Development Committee, Village Parewadih, R/o
Ward No. 15, Village Parewadih, Post Sambalpur, Tahsil And District
Dhamtari (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Revenue And
Disaster Management Department, Mahanadi Bhawan New
Mantralaya, Atal Nagar, Nawa Raipur, Distt. Raipur (C.G.)
2. The Collector Dhamtari, District Dhamtari (C.G.)
3. The Sub-Divisional Officer (Revenue) Dhamtari, District Dhamtari
(C.G.)
4. The Tahsildar Dhamtari, District Dhamtari (C.G.)

---- Respondents

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. R.S. Patel, Advocate
For Respondents	:	Mr. Raghvendra Pradhan, AAG

Hon'ble Mr. Ramesh Sinha, Chief Justice
Hon'ble Mr. Sanjay K. Agrawal, Judge

Order on Board**Per Ramesh Sinha, Chief Justice****26.04.2023**

Heard Mr. R.S. Patel, learned counsel for the petitioner as well as
Mr. Raghvendra Pradhan, learned Additional Advocate General,
appearing for the State/respondents.

2. The petitioner has filed this petition in the style of 'Public Interest
Litigation' with the following prayers :



“10.1 That, this Hon’ble Court may kindly be pleased to issue appropriate writ and direct the respondent authorities, instead of Subject lands, some another lands may be allotted for construction of Horticulture College at Village – Parewadih, in the interest of justice.

10.2 That, this Hon’ble Court may kindly be pleased to issue appropriate writ and direct the respondents consider the objections of the petitioner & other villagers for not constructing the Horticulture College at Village – Parewadih, in the interest of justice.

10.3. Any other relief which the Hon’ble Court deems fit and proper under the facts and circumstances may also be provided to the public at large.”

3. The petitioner is aggrieved by the act of the respondent authorities whereby the respondent authorities after knowing the fact that the subject land is reserved for grazing of Cattle, Gaothan, Graveyard, allotted the same for construction of Horticulture College ignoring the objections of the petitioner.

4. On 14.07.2021, the College of Horticulture, Dhamtari, Chhattisgarh demanded the subject land for construction of Horticulture College and





on 15.07.2021, a case was registered by the Tahsildar, Dhamtari and it was further directed to issue notification / announcement in local Daily Newspaper for inviting objections. On 11.08.2021, the petitioner in capacity of the President of Rural Development Committee along with the members of villagers and the Sarpanch of Gram Panchayat, Parewadih, submitted an objection and on 13.01.2023, Halka Patwari No.21 had submitted its report to Naib Tahsildar. Thereafter, on 31.01.2023, the Collector allotted the subject land to the Horticulture College at free of cost.

5. The case was listed for hearing on 25.04.2023 before this Court and this Court after hearing learned State counsel, passed the following

order :

6. In compliance of the said order, an affidavit has been filed by the State/respondents on 25.04.2023, which reads as follows :

“1. That, I am posted as the Incharge Collector, District Dhamtari (C.G.) and duly authorized to swear this affidavit on behalf of the Answering Respondent No. 1 to 4 / State and as such fully conversant with the facts of the case.

2. That, so far as the subject land is concerned, in this regard, the Section 237 of the Chhattisgarh Land Revenue Code, 1959



is very specific, which is being reproduced here for ready reference of the Hon'ble Court, as under:-

Chhattisgarh Land Revenue Code, 1959

Section 237:Collector to set apart land for exercise of Nistar rights. (1) Subject to the rules made under this Code, the Collector may set apart unoccupied land for the following purposes, namely:-

- (a) for timber or fuel reserve;
- (b) for pasture, grass bir or fodder reserve;
- (c) for burial ground and cremation ground;
- (d) for Gaothan (and establishment of Gowshala and animal holding premises);
- (e) for encamping ground;
- (f) for threshing floor;
- (g) for bazar;
- (h) for skinning ground;
- (i) for manure pits;
- (j) for public purposes such as schools, play grounds, parks, roads, lanes, drains and the like; and
- (k) for any other purposes which may be





prescribed for the exercise of right of Nistar.

(2)

(3) Subject to the rules made under this Code, the Collector after securing the land mentioned in clause (b) of sub-section (1) to minimum two percent of the total agriculture land of that village, may divert such excess land as mentioned in clause (b) of sub-section (1) into any other purposes (as agriculture, abadi, residential projects, construction of roads, canals, tanks, hospitals, schools, colleges, Government offices, public godowns, power system, gaushalas, excavation of clay by potters minor minerals or any other public utility projects as may bedetermined, by the State Government.

(3-A) Where the land kept for the purposes mentioned under clause (b) of sub-section (1) is found within the area identified for any industrial, commercial or mining project, then the Collector may divert such land for the above mentioned purposes, but such





diversion can be made only when equivalent land is provided for the purpose of clause (b) of sub-section (1) within the same village.

3. That, it is humbly submitted that, as per the report dated 12.01.2023 of the court of the Naib Tehsildar, Dhamtari, Rural 3, District Dhamtari (C.G.), the total agricultural land of the concerned Village Parewadih, Post Sambalpur, Tehsil and District Dhamtari (C.G.) is about 386.01 Hectares and as per the Nistar Patrak of the concerned Village Parewadih, the total Graze land is about 48.70 Hectares and the Office of the District Collector, Dhamtari has allotted the land admeasuring about 19.49 Hectares to the Horticulture College. However, it is humbly submitted that, as per the Section 237(3) of the Chhattisgarh Land Revenue Code, 1959, two percent of total agricultural land (386.01 Hectares) of the concerned Village Parewadih, is about 7.72 Hectares whereas, the Office of the Collector, District Dhamtari has allotted only 19.49 Hectares to the





Horticulture College, therefore, the remaining land is about 29.21 Hectares, which is remaining land for grazing purposes and the same is more than two percent of the total agricultural land (386.01 Hectares). Copy of the report dated 12.01.2023, is being annexed herewith as ANNEXURE R/2. Copy of the Nistar Patrak of Village Parewadih, is being annexed herewith as ANNEXURE R/3.

4. That, it is further humbly submitted that, as per the Nistar Patrak, the total area of Khasra No.528 is 2.16 Hectares. It is relevant to mention here that, in the spot, out of 2.16 Hectares of Khasra No.528, 2 Hectares of land is lying vacant. Likewise, as per Nistar Patrak, total area of Khasra No.714 is 2.43 Hectares which is completely lying vacant in the spot, therefore, it is apparently clear that, in the Village Parewadih, more than 13 Hectares of land is completely lying vacant, which can be used by the concerned villages for Nistar.

5. That, the contents of the attached Affidavit at Paragraphs No. 01 to 04, have





been drafted under my instruction and the content thereof are true and correct on the basis of the records, available in the office.”

7. Learned counsel for the petitioner submits that in view of the contents of affidavit filed by the State on 25.04.2023, this petition may be disposed of.

8. In the affidavit filed by the State on 25.04.2023, it transpires that out of 2.16 Hectares of Khasra No.528, 2 Hectares of land is lying vacant and as per Nistar Patrak, total area of Khasra No.714 is 2.43 Hectares, which is completely lying vacant in the spot. It also reflects that in the Village Parewadih, more than 13 Hectares of land is completely lying vacant, which can be used by the concerned villagers for Nistar purpose.

9. Having considered the submissions of learned counsel for the parties as well as considering the affidavit filed by the State, instant public interest litigation stands disposed of.

Sd/-
(Sanjay K. Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Anu