

**ORISSA HIGH COURT : CUTTACK**

**W. P.(C) NO. 5119 OF 2002**

In the matter of an application under Articles 226 and 227 of the Constitution of India.

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Pankaj Charan Dhal & others ..... Petitioners

-Versus-

State of Orissa and others ..... Opp. Parties

For Petitioners : M/s. S.P.Mishra, B.K. Dash,  
B.K. Sharma, K.A. Guru,  
A.K.Mohanty & K.K. Nayak.

For Opp. Parties : Addl. Government Advocate  
(For O.Ps 1 to 4)

M/s. R.K.Mohanty, D.K.Mohanty,  
P.K. Rath, S.N. Biswal,  
P.K. Satapathy &  
P.K. Samantaray,  
(For O.Ps 5 to 56).

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Decided on 29.06.2009.  
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**P R E S E N T :**

**THE HONOURABLE SHRI JUSTICE M. M. DAS**  
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**M.M. Das, J.** Villages, namely, Raghavpur, Amrutpur, Madhupur, Nuagaon and Ratakana, were earlier under Gedma Grama Panchayat in Hatdihi Block in the district of Keonjhar. As Gedma was a large area consisting of several villages, considering the demand made by the villagers for formation of a new Grama Panchayat, the Block Development Officer, Hatadihi vide his

letter dated 2.1.1996 addressed to the Sub-Collector, Anandpur recommended for formation of a new Grama Panchayat, namely, Raghavpur Grama Panchayat. The State Government vide its notification No. 20211 dated 9.11.2001 constituted Raghavpur Grama Panchayat consisting of the aforesaid five villages. Thereafter, by a corrigendum dated 12.11.2001 to the above notification, notified that in the above notification, the word “Raghavpur” appearing in the column no.3 be corrected and read as “Itipur” and in column-4, after serial no. 5, the name of Itipur village be inserted as serial no. 6 with a population of 440 and the total population be corrected as 2389. Hence, by the said corrigendum the name of the Grama Panchayat was changed from “Raghavpur” to “Itipur”. Being aggrieved by the said decision of the Government, some of the petitioners filed O.J.C. No. 15359 of 2001 before this Court and the said writ petition was disposed of by a common judgment along with similar matters directing the petitioners therein to file a representation before the Secretary, Panchayati Raj Department for taking appropriate action at his end. The said petitioners, accordingly, filed a representation on 15.12.2001 making a two-fold prayer, one being to change the name of the Grama Panchayat from “Itipur” to “Raghavpur” and the second being to fix the headquarters of the Grama Panchayat at Raghavpur. The State Government in its

Panchayati Raj Department sought for a report from the Collector, Keonjhar vide letter dated 16.1.2002 and subsequent letter dated 17.6.2002 with regard to fixation of the headquarters of the newly created Itipur Grama Panchayat thereby impliedly declining the prayer of the said petitioners for change of the name of the Grama Panchayat, but keeping the consideration open with regard to fixation of the headquarters of the Grama Panchayat. The Collector, Keonjhar – opp. Party no. 2 vide his letter dated 10.5.2002 intimated the Deputy Secretary to the Government, Panchayati Raj Department that he has caused an enquiry through the Block Development Officer, Hatadihi and enclosed the report dated 22.3.2002 of the said Block Development Officer along with the letter. The State Government after receiving the report from the Collector, by a notification No. 16308 dated 9.9.2002 declared the headquarters of Itipur Grama Panchayat at Raghavpur (Annexure-8). Some of the petitioners in W.P. (C) No. 5119 of 2002 challenged the said notification dated 9.9.2002 under Annexure-8 in W.P. (C) No. 3816 of 2002 on the ground that the representation of the petitioners, which was filed before the Secretary, Panchayati Raj Department pursuant to the earlier order of this Court was not considered in its proper perspective and the Government has completely lost sight of the earlier letter of the Block Development Officer dated 2.1.1996 in which he

recommended that the name of the Grama Panchayat should be Raghavpur and the Government only fixed the headquarters of the Grama Panchayat at Raghavpur. However, the said writ petition, being W.P. (C) No. 3816 of 2002, was withdrawn by order dated 3.12.2002. The Government subsequent thereto issued a notification no. 22569 dated 5.11.2002 vide Annexure-1 to the following effect:-

“GOVERNMENT OF ORISSA

PANCHAYATI RAJ (G.P.) DEPARTMENT

No. LS -II-135/2002-22569/G.P. BBSR. Dated the 5.11.02.

N O T I F I C A T I O N

In exercise of powers conferred by Sub-Section (3) of Section 4 of O.G.P. Act, 1964 and on consideration of resolution of Itipur G.P. dt. 24.9.2002 and report of the B.D.O., Hatdihi, the State Govt. have been pleased to revoke the earlier notification No. 16308 dt. 9.9.2002 fixing Head Quarters of Itipur G.P. at Raghavpur and order that considering the central location, administrative suitability, availability of infrastructural facilities like, Hospital, School, Colleges and other Govt. institution, the Headquarters of Itipur G.P. shall be fixed at Itipur within the limits of said Grama.

By order of the Governor.

Sd/- S.K.Pradhan.

Deputy Secretary to Government.”

Being aggrieved by the notification under Annexure-1, the petitioners have preferred the present writ petition for appropriate relief.

2. The State Government has filed a counter affidavit, inter alia, stating that on a subsequent representation

being filed, the Government reconsidered the matter along with the resolution dated 24.9.2002 of the Itipur Grama Panchayat and finding that Itipur Grama Panchayat is more suitable to be fixed as the headquarters of the Grama Panchayat, issued the impugned notification and no illegality can be attributed to the said notification. The petitioners have also filed a rejoinder to the said counter affidavit. A counter affidavit has also been filed on behalf of the private opp. Parties.

3. A perusal of the report of the Block Development Officer, which was enclosed to the letter of the Collector, Keonjhar addressed to the Government in Panchayati Raj Department, discloses that both Raghavpur and Itipur villages are similarly situated in the Grama Panchayat with regard to distance from the other villages. Similar facilities are also available in both the villages.

4. Section 3 (1) of the Orissa Grama Panchayat Act, 1964 provides that the State Government may, for the purpose of the said Act, constitute any village or group of contiguous villages as a Grama and assign to such Gram, a name, which shall be of one of the villages comprised with the Grama by notifying the same in the Gazette. Section 3 (2) of the Orissa Grama Panchayat Act provides that the State Government wherever deem fit so to

do may cancel any notification in respect of a Grama under sub-section (1) or may alter the area comprised in a Grama by reducing or adding to the number of villages comprised within such Grama and notify the same in the gazette. Sub-section (3) of section 4 of the Orissa Grama Panchayat Act provides that the office of the headquarters of the Grama Sasan shall be situated within the limits of Grama and unless otherwise ordered by the State Government in the village bearing the name of the Grama.

5. From the facts of the present case, it appears that the Government on due consideration of the report of the Block Development Officer, though initially fixed the headquarters of the Grama Panchayat at Raghavpur, but subsequently altered the same by the impugned notification notifying that the headquarters shall be situated at "Itipur". It further appears that though as per the law laid down in the case of ***Bijay Kumar Behera and others v. State of Orissa and others***, AIR 2001 Orissa, 164 that the resolution of a Grama Panchayat cannot be a ground to shift the headquarters of Grama Panchayat and in the impugned notification, such a resolution has been referred to, but it appears that the Government has also taken into consideration all other aspects while issuing the notification impugned in this writ petition. Thus, the impugned notification is not solely based on the

resolution of the Itipur Grama Panchayat and, as such, the ratio of the above decision cannot be made application to the facts of this case.

6. Learned counsel for the State also submitted that elections of Ward Members, Naib Sarpanch and Sarpanch have been conducted to the office of Itipur Grama Panchayat in the meanwhile and the construction of the building of the Grama Panchayat office has also been completed at Itipur, where the Panchayat Office is functioning.

7. In view of the above, this Court does not find any arbitrariness or illegality in the impugned notification dated 5.11.2002 vide Annexure-1. The writ petition is accordingly dismissed, being devoid of merit, but in the circumstances without cost.

The interim order passed earlier stands vacated and all pending Misc. Cases also stand disposed of.

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**M.M. Das, J.**

*Orissa High Court, Cuttack.  
June 29th, 2009/Biswal.*







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