

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1526 of 2015

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Nageshwar Prasad Singh, Son of Late Bindeshwari Prasad Singh , Resident
of Village + P.O. Mohabba, Block- Dandari, P.S.-Dandari, District-
Begusarai

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Education
Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Govt. of Bihar, Patna
3. The District Magistrate, Begusarai.
4. The District Programme Officer, Begusarai.
5. The District Education Officer, Begusarai.
6. The Block Development Officer, Dandari Block Begusarai.
7. The Block Education Officer, Dandari Block , Begusarai.
8. The Circle Officer, Dandari , Begusarai.
9. Sri Anil Paswan, Son of Late Rati Lal Paswan, Resident of Village -
Kalyanpur, P.O. Mohabba, P.S. Dandari, Distt- Begusarai.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajendra Prasad Singh, Sr. Advocate
Mr. Navjot Yeshu, Advocate
For the S t a t e : Mr. Rajeev Lochan, A.C. to S.C.-11
For Opp. Party No.9 : Mr. Siddhartha Prasad, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 27-04-2015

This writ petition is filed as Public Interest Litigation,
feeling aggrieved by the order dated 18.12.2014 passed by the
Director, Secondary Education, Government of Bihar, Patna-the
2nd respondent herein.

The controversy is with respect to upgradation of
Middle School within the limits of Mahipatol Panchayat of
Dandari Block in the District of Begusarai.

Two Middle Schools are functioning within the limits
Mahipatol Panchayat; one at Kalyanpur Village and another at



Mohabba Village. The Government has a proposal to upgrade one of the Schools, as High School. After considering the report submitted in respect of the same, the 2nd respondent passed an order dated 27.12.2013 directing upgradation of Middle School, Mohabba. Aggrieved by that, one Anil Paswan, the 9th respondent, filed CWJC No.4435 of 2014. The writ petition was disposed of, through order dated 11.3.2014, by a Division Bench of this Court observing that the 9th respondent herein can make a representation to the authorities concerned.

The 9th respondent filed a representation stating, *inter alia*, that the open land available at Kalyanpur is much more than the one at Mohabba. Thereafter, the 2nd respondent called for a report from the Circle Officer-8th respondent herein, who, in turn, submitted a detailed report on 23.8.2014. In the report, he has stated that the School at Kalyanpur has 20.3 decimals of land and 1 Acre and 30½ decimals of land is available for further expansion. As regards the School at Mohabba, he stated that the existing buildings are in an extent of 16 decimals and the open land on the other side of the road is to the extent of 15.5 decimals. Taking this into account, the 2nd respondent passed order dated 18.12.2014 directing that the School at Kalyanpur be upgraded. The same is challenged in this writ petition.

Heard Shri Rajendra Prasad Singh, learned Senior Counsel for the petitioner, Shri Rajiv Lochan, learned Assistant Counsel to Standing Counsel No.11 for the State and Shri Siddhartha Prasad, learned counsel for the 9th respondent.

Steps are initiated for the upgradation of the schools, functioning in the villages or even in the Blocks. It is natural

that claims and counter claims are made by the respective villages and Gram Panchayats, as the case may be.

It appears that from the point of view of strength, both the Middle Schools, referred to above, stand on the same footing. The important criterion was as regards availability of land for expansion. It is no doubt true that on an earlier occasion, the District Magistrate got the matter verified and ultimately, the choice fell upon the School at Mohabba. The 9th respondent filed a writ petition and pursuant to the observation in the said writ petition, he made a representation.

A report was called for from the Circle Officer-the 8th respondent. In his detailed report dated 23.8.2014, the 6th respondent furnished comparative figures of availability of land at both the places. As regards Kalyanpur, the 6th respondent stated that the buildings are in extent of 25 decimals and 1 Acre and 30 ½ decimals of land is available for further expansion. Location and nature of the land are also furnished. In contrast, the land available at Mohabba is just 16 decimals, covered by the buildings, and 15.5 decimals as playground, that too, on the other side of the road. Some open land is said to be under litigation. Obviously the 2nd respondent was inclined to upgrade the School at Kalyanpur, and now the petitioner has challenged the same. The steps taken by the 2nd respondent are for welfare of the children, and that happens to be the paramount consideration. It certainly is an important factor that 1.30 decimals of land are available in the same premises.

Under such circumstances, we do not find any basis to interfere with the order passed by the 2nd respondent. The writ petition is dismissed.

Before parting with the case, we observe that if the strength of the School at Mohabba warrants upgradation, the 2nd respondent shall initiate steps in that behalf. In such an event, the respondent-authorities shall be under obligation to resolve the disputes existing over the land or to provide additional land.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

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