

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7060 of 2012

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Reyaz Ahmad S/o Md. Nisaruddin resident of Kila Chowk, Mehendi Hassan Chowk, Brahmpura, P.S. Brahmpura, Town and District - Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, New Secretariat, Patna
2. The District Magistrate, Muzaffarpur
3. Regional Deputy Director of Education, Human Resources Department, Muzaffarpur
4. District Education Officer, Muzaffarpur
5. The Managing Committee through Its Secretary, B.B. Collegiate School, Motijheel, Town and District - Muzaffarpur
6. The Managing Committee through Its Secretary, D.N. High School, Gola Road, Town and District - Muzaffarpur
7. Principal (Senior Secondary) B.B. Collegiate School, Motijheel, Town and District - Muzaffarpur
8. Principal (Senior Secondary) D.N. High School, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner : Mr. K.K. Tiwari, Advocate

For the Respondent Nos.1 to 4: Mr. Brajesh Kumar, AC to AAG 11

For Private Respondents : Mr. Y.V. Giri, Sr. Advocate

Mr. Manoj Kumar Manoj, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-02-2015

This writ petition is filed in the form of public interest litigation claiming to be the representative of guardians of the students of B.B. Collegiate School, Muzaffarpur and D.N. School, Muzaffarpur.

2. The petitioner challenges an advertisement dated 20.03.2012 issued by the Principals of those schools in the newspaper published in the "Hindi Hindustan" inviting the tenders for

construction of shops in the places between the compound of the schools and road margin.

3. The petitioner contends that such permission for construction of shops is not in accordance with law. It spoils the atmosphere in the schools. Other grounds have also been urged.

4. On behalf of the respondents, a detailed counter affidavit has been filed. It is stated that Public Accounts Committee of the State Government has resolved to promote the schools under the Government control to construct shops in the places left between the compound wall and road margin so that they can serve double purpose of preventing the encroachment by the unlawful elements and augmenting the resources for the schools. It is stated that the writ petition is filed at the behest of the illegal encroachers and there is no merit in this petition.

5. Heard Mr. K.K. Tiwari, learned counsel for the petitioner and Mr. Brajesh Kumar, Assistant Counsel to Additional Advocate General No.11 for the State and also Mr. Y.V. Giri, learned senior counsel for the private respondents.

6. One fact which needs to be noticed was that though the writ petition was filed in the year 2012 challenging the advertisement dated 20th March, 2012, no interim order has been passed and the result is that not only tenders had been invited but also

work was allotted. The petitioner did not file any reply to counter affidavit.

7. Be that as it may, the tender notice was issued on the basis of the Resolution passed by the Public Accounts Committee of the State Government. It is not uncommon that the places around the public institutions, schools and the Government offices are freely encroached and totally uncongenial atmosphere is brought into existence by the encroachers. Nuisance created by the encroachers virtually makes the functioning of the schools and Government offices impossible.

8. It appears that the Public Accounts Committee of the State Government took stock of the situation and mooted the proposal. The petitioner is not able to point out as to how steps taken by the respondents are contrary to law.

9. We are not inclined to grant any relief in the public interest litigation petition. It is dismissed. There shall be no order as to cost.

10. The interlocutory application, if any, stands disposed of.

(L. Narasimha Reddy,CJ)

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(Vikash Jain, J)