

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13953 of 2014

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1. Manoj Kumar Sharma Son of Late Radhey Raman Singh Resident of Village- Lodipur, P.S.- Muffasil, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The District Education Officer, Gaya.
4. The District Programme Officer, Gaya.
5. The State Project Director, Bihar Secondary Education Council Bihar, Patna.
6. The Block Development Officer, Manpur, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Singh, Adv.
For the Respondent-State : Mr. Gyan Shankar A.C. to G.P. 6
For the BSEC : Mr. Girish Kumar , Adv.
For the intervenor : Mr. Pramod Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 23-01-2015 Heard Mr. Amar Nath Singh, learned counsel for the petitioner, Mr. Gyan Shankar A.C. to G.P. 6 for the State, Mr. Girish Kumar learned counsel appearing for the Project Director, Bihar Secondary Education Council, Bihar, Patna and Mr. Pramod Kumar has appeared on behalf of one Fakira Singh who seeks to intervene in the matter for assisting the Court.

The petitioner has questioned the up gradation of Middle School, Gere in the District of Gaya into a High School for which a recommendation was made by the District Programme Officer, National Secondary Education Programme/Secondary Education

(राष्ट्रीय माध्यमिक शिक्षा अभियान/माध्यमिक शिक्षा) -cum-Member Secretary, Gaya to the State Project Director, Bihar Secondary Education Council, Patna as contained in Annexure-1.

It is the contention of the petitioner that although the Middle School at Gere had possessed only 0.16 decimals of land at the time of consideration but the then District Education Officer, Gaya by interpolating the figures had made it to read as 2.16 acres so that the said school is given a preference over the Middle School, Lodipur which has 0.28 decimals of land. In support of such submission Mr. Singh referred to the information provided by the Circle Officer-cum-Public Information Officer, Manpur present at Annexure-3 in which it has been specifically stated that Middle School, Gere possessed only 0.16 decimals of land. It was thus contended by Mr. Singh learned counsel appearing for the petitioner that in view of the information given by the Circle Officer-cum-Public Information Officer present at Annexure-3, the interpolation made by the then District Education Officer in the comparative chart placed at Annexure-2 is confirmed and such malafide actions has led to denial of the claim of Middle School, Lodipur for up gradation.

As the matter reflected interpolation in the office records that a counter affidavit was desired by this Court to be filed by the

District Magistrate, Gaya as well as the District Education Officer, Gaya and which has since been filed in the proceedings.

The counter affidavit filed by the District Magistrate, Gaya as well as the as the present incumbent on the post of District Education Officer, Gaya both confirm the interpolations in the official records by the then District Education Officer to benefit Middle School, Gere in preference to Middle School, Lodipur.

The affidavit of the intervenor reflects that an area of 95 decimals was sought to be donated in the year 1993 in favour of the Middle School, Gere and since after the matter surfaced that a further area of 1.05 acres by way of gift has been executed in favour of the said school in the year 2014

Following the order of this Court an enquiry was conducted into the matter by the D.D.C., Gaya and whose report is present at Annexure-B to the counter affidavit filed on behalf of the District Magistrate confirming the interpolation and at paragraph 7 of the counter affidavit it has been mentioned that departmental proceedings have been recommended against the erring officials. The grievance raised by the petitioner thus stands confirmed from the counter affidavit(s) filed by the District Magistrate, Gaya as well as the present incumbent on the post of District Education Officer and which also confirms that Middle School, Lodipur has

been unjustly denied consideration for up gradation as a High School.

I have heard learned counsel for the parties and I have perused the materials on record.

The interlocutory application filed by one Fakira Singh reflects that consequent upon approval of the recommendation for up gradation of Middle School, Gere that work has already started and even the first floor of the school stands completed. Meaning thereby the up gradation so approved stands implemented.

Taking note of the circumstances in totality where the interpolation stands confirmed by the concerned authorities as also taking note of the fact that the decision of up gradation of Middle School, Gere has taken its effect, this Court in the fitness of things is not persuaded to interfere with the decision at this stage even though it is founded on incorrect appreciation of the factual position but even while observing as such this Court is also of the opinion that for the unjust denial of the claim of the Middle School, Lodipur for up gradation, it deserves a consideration.

In the circumstances the writ petition is disposed of with the direction to the District Education Officer, the Project Director, Bihar Secondary Education as well as the District Magistrate, Gaya to consider the claim of Middle School, Lodipur for up

gradation more particularly in the backdrop that as on the date of consideration of the issue of up gradation, it is the Middle School, Lodipur who possessed the highest minimum landed area of 0.28 acres in comparison to the other Middle Schools situated within the Gere Panchayat. Such decision should be taken by the concerned authorities within three months from the date of receipt/production of a copy of this order and be disposed of by an speaking order.

Before parting this Court would put on record that since the interpolation stands confirmed hence the decision of the District Magistrate, Gaya and other concerned authorities to proceed departmentally against the erring official would not preclude them from also drawing appropriate criminal proceedings against them.

(Jyoti Saran, J)

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