

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10204 of 2015

Surendra Prasad Yadav, son of Uttam Lal Yadav, resident of Village + P.S. Mahthaur Khurd, P.S. Phulparas, District-Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Director, Secondary Education, Govt. of Bihar, Patna.
4. The A.R. Officer, Secondary Education, Govt. of Bihar, Patna.
5. The State Programming Officer, Bihar Secondary Education Council, Patna.
6. The District Education Officer, Madhubani.
7. The Sub-Divisional Officer, Phulparas, Madhubani.
8. The Deputy Collector Land Reforms, Phulparas, Madhubani.
9. The Block Development Officer, Phulparas, Madhubani.
10. The Headmaster, Mahthaur Khurd Middle School, Phulparas, Madhubani.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Senior Advocate
Mr. Rajesh Kumar, Advocate
Mr. Prabhu Narayan Prabhakar, Advocate
For the Respondent/s : Mr. Roy Shivajee Nath, A.A.G.-3
Mr. Girijesh Kumar, Advocate
Mr. Amrendra Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 31-07-2015

The writ petition was filed complaining that though Middle School at Mahthaur Khurd Panchayat and village has been upgraded as High School in the year 2013 itself, the same has been shifted to another place at Phulparas, in the same Panchayat, on political consideration.

It is stated that the only ground on which the school was

shifted is that the place available at Mahthaur Khurd is 2 acres 58 decimals, and the one available at Phulparas is 3 acres 31 decimals.

We issued notice to the respondents, and not only counter affidavit but also supplementary counter affidavit together with enclosures are filed.

Heard Sri Ramakant Sharma, learned senior counsel for the petitioner and Sri Ray Shivaji Nath, learned Additional Advocate General-3 for the respondents.

It is not in dispute that the Middle School at Mahthaur Khurd, the headquarter of the Gram Panchayat, was upgraded as High School in the year 2013, after verifying the necessary facts. It is, thereafter, that the matter is said to have been referred to three men committee. From a report submitted by three men committee on 05.07.2013, it is evident that the requirement for a typical High School is that about an extent of 1.5 acres should be available. Annexure-C enclosed to the counter affidavit, discloses that the land in Mahthaur Khurd available for the school is 5 acres 16 decimals, whereas one at Phulparas is 3 acres 31 decimals. In respect of Mahthaur Khurd, it is mentioned that the structures, such as Gram Panchayat, Animal Husbandry Hospital and Anganbari Centre, exist on the part of the land. Even if that is excluded, the available land is more than what is mentioned in the parameters for establishing a

High school. Once the school has been upgraded and students have been studying therein, it is not at all advisable or permissible to shift the school abruptly, that too on non-existent ground and irrelevant ground of land.

We, therefore, direct that the Mahthaur Khurd High School shall function at Mahthaur Khurd, and necessary steps in this behalf shall be completed within 15 days. We also direct that in case, there is adequate strength for upgrading the school at Phulparas, the running of the High School at Mahthaur Khurd shall not come in the way.

With the above direction, we allow the writ petition.

Interlocutory application, if any, shall stand disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Anjana Mishra, J)

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