

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18632 of 2011

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1. Kamalnabh Narayan Singh S/O Late Haribansh Narayan Sinha R/O Village- Chechar, P.S.- Bidupur, District- Vaishali, At Present Residing At Haribansh Ashram, S.D.O. Road, P.S.- Town, Hajipur, District- Vaishali

2. Traymbak Narayan Singh S/O Late Haribansh Narayan Sinha R/O Village- Chechar, P.S.- Bidupur, District- Vaishali, At Present Residing At Haribansh Ashram, S.D.O. Road, P.S.- Town, Hajipur, District- Vaishali

.... Petitioner/s

Versus

1. The State Of Bihar

2. The Principal Secretary Department Of Human Resources Development, Government Of Bihar, Patna

3. The Principal Secretary Public Health And Engineering Department, Government Of Bihar, Patna

4. The Executive Engineer Public Health And Engineering Department, Government Of Bihar, Patna

5. The Director, Secondary Education Department Of Human Resources Development, Government Of Bihar, Patna

6. The Deputy Director, Secondary Education Department Of Human Resources Development, Government Of Bihar, Patna

7. The District Magistrate, Vaishali At Hajipur

8. The District Education Officer, Vaishali At Hajipur

9. The Circle Officer, Bidupur, District- Vaishali

.... Respondent/s

with

Civil Writ Jurisdiction Case No.4194 of 2015

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1. Padmanath Narayan Singh "Bhaskar" .

2. Achyut Narayan Singh 'Keshari'. Both are sons of Late Hari Vansha Narayan Singh, Residents of Village- Chechar, P.S. Biddupur, District- Vaishali, At present Resident of Mohalla Hazipur, Magsudpur, P.S. Hazipur Town, District-Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.

2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.

3. The Principal Secretary, Public Health and Engineering Department, Government of Bihar, Patna.

4. The Director, Secondary Education, Department of Human Resources Development, Government of Bihar, Patna.

5. The Deputy Director Secondary Education, Department of Human Resources Development, Government of Bihar, Patna.

6. The Commissioner, Tirhut Division, Muzaffarpur.

7. The District Magistrate, Vaishali at Hajipur.

- 8. The Executive Engineer, Public Health & Engineering Department, Patna.
- 9. The District Education Officer, Vaishali at Hajipur.
- 10. The Circle Officer, Bidupur, District - Vaishali.

.... Respondent/s

Appearance :

(In CWJC No.18632 of 2011)

For the Petitioner/s	: Mr. Naresh Chandra Verma
	Mr. Natraj Verma
	Mr. L.K.Tiwary
For the State	Mr. Pramod Kumar Sinha, AC to AAG-2
For the intervenor	Mr. Ajay

(In CWJC No.4194 of 2015)

For the Petitioner/s : Mr. Anil Kumar

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

3 22-09-2015 Heard the counsel for the petitioners in both the writ petitions and the State. Both matters raise similar dispute and as such they have been heard together with the consent of the parties.

Whether part of the land the father of the 04 petitioners donated for establishment of a school can be used by the State respondent(s) for setting up of Bidupur Multi Village Water Supply Scheme Plant (for short ‘the Plant’) is the question posed for consideration in the present writ petition(s).

Earlier, several villagers had filed a writ petition being CWJC No. 6843 of 2011 calling in question the decision of the government to construct the Plant on part/portion of the land donated by the father of the petitioners for construction of



Rajkiya Buniadi Vidyalaya, Chechar, Bidupur in the district of Vaishali. The State respondents filed counter affidavit to justify the decision of the State Government to use/utilize the part/portion of the land measuring 6.24 acres donated by the father of the petitioners for the purpose of setting up the said Plant to make underground water potable by making arsenic-free which was bound to cause serious health hazards/risk and fatal to life. This Court declined to grant any relief as no one from the donor family was the writ petitioners in the said writ petition. After disposal of the said writ petition on 28.07.2011, the two writ petitions have been filed by the four sons of the donor questioning the decision of the government to construct the Plant in question over the part/portion of the land donated by their father for the purpose of setting of the school in question.

It has been submitted that the deed of gift clearly contemplates that the purpose of gift in the name of the Hon'ble Governor is construction of the building of the school. If there is any deviation therefrom the donor shall have the right to re-possess the land donated by the father of the petitioners. The land having come in the hands of the State-respondent(s) by virtue of the deed of gift executed in the year 1950 the school was set up which was running. The area where the school is located was



subsequently declared as an area where the underground water had more than the average limit of arsenic. The State respondent(s), in such view of the matter, took up the scheme with the assistance of the Central Government for setting up the Plant at the cost of Rs. 142.42 crores. The location was found fit and, as such, besides government land available at the location part of the school land measuring an area of 4.93 acre was utilized for setting up the Plant after getting an approval in this regard by the appropriate/competent authority of the State Government. This is being objected by the writ petitioners in the present writ petitions.

Counsel for the petitioners has submitted that the donation of the land was for a particular purpose with certain condition/stipulation(s). If the conditions/stipulations are violated/breached the donor or their heirs would be entitled to re-conveyance of the donated land. The petitioners do not want re-conveyance of the land but they would definitely require the State respondents to adhere to the purpose for which the land was donated by their father in 1950. The necessity of having a large land area of school has been emphasized by the petitioners.

The respondents, on the other hand, have contended that the land does not belong to the petitioners. If the petitioners want re-conveyance of the land on the ground of breach of



conditions/stipulations of the deed of gift, the remedy lies before the civil court. So far as setting up the Plant is concerned, it has been stated that the ground water available in the area where the school in question is located was found arsenic content more than the required level. It was posing a serious health hazard/problem for the residents of the area and to ameliorate the health condition of the residents the State respondents decided to set up the Plant for which part of the land of the school has been utilized after getting approval from the appropriate/competent authority. This Court would not appraise the justification for setting up such Plant at the location in question particularly when the land which has been used/utilized for the said purpose is the land of the State Government having been donated as such. Until and unless the deed of gift is set aside by the court of competent civil jurisdiction the land will remain the land of the respondent-State which can be utilized for any public purpose like setting up the Plant which will cater to the need of the residents of the locality by providing pure drinking water.

Having given my anxious consideration to the rival submissions it appears to this Court is that the part of the land was found suitable for setting up the water treatment plant considering the location of the school/land. That apart, certain

more government land available at the place has also been used for the said purpose. What scheme should be implemented is the domain of the Executive. The Court would normally desist from interfering therewith until and unless it is shown to be patently opposed to the public purpose. Undisputedly, the subject land has been gifted by the father of the petitioners and the land, as of today, is the land of the State Government. This limitation on the jurisdiction of the Court persuades me not to exercise the extraordinary and discretionary writ jurisdiction in the case.

The writ applications are dismissed.

(Kishore Kumar Mandal, J)

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