

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15401 of 2014

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Shambhu Sharan Patel, S/o Ramswarup Raut, R/o Village + P.O. Chhattiyara, P.S. Karanday, District Sheikhpura.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Director Secondary Education, Government of Bihar, Patna.
3. District Magistrate, Sheikhpura.
4. Managing Director, Bihar State Educational Infrastructure Development Corporation, Shiksha Bhawan, Bihar, Rastra Bhasha Parisad Campus, Acharya Shivpujan Sahay Path, Shaidpur, Patna-4.
5. Chief Engineer, Bihar State Education Infrastructure Development Corporation, Shiksha Bhawan, Bihar, Rastra Bhasha Parisad Campus, Acharya Shivpujan Sahay Path, Shaidpur, Patna-4.
6. District Programme Officer, Sheikhpura.
7. Block Development Officer, Chewara, District Sheikhpura.
8. Circle Officer, Chewara, District Sheikhpura.
9. Block Education Officer, Chewara, District Sheikhpura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Manisha Singh, Advocate

For the Respondent/s : Mr. Anjani Kumar, AAG6

Mr. Shailendra Kumar Singh, A.C. to A.A.G-6

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 11-05-2015

This is a writ petition, which merits consideration and reflects proper grounds for intervention.

The Government of Bihar took a policy decision to upgrade Middle Schools in various Panchayats as High Schools. In the process, the Middle School in Chhathiyara Village of the same Panchayat was selected. The matter was proceeded further, and not only sanction was accorded for construction of building, but also

fund was released and work of construction of building was taken up. It is stated that a sum of Rs.25,00,000/- was spent already for construction of the building.

CWJC No.22247 of 2013 was filed by one Pramila Devi from Kapasi village of the same Panchayat objecting the up-gradation of the school at Chhathiyara village. The writ petition was disposed of on 27.05.2014 leaving it open to her, to submit a representation ventilating her grievance. Such a representation was made. Reeling under the assumption that the hearing of the said writ petition is still in progress, the District Magistrate passed an order dated 06.08.2014 directing stoppage of construction of the building. Thereafter, an order was passed on 28.11.2014 cancelling the up-gradation of Middle School at Chhathiyara. It is under these circumstances, the petitioner approached this Court by filing the present writ petition. He contends that once the up-gradation is sanctioned and construction of building was taken up, there was absolutely no basis for stoppage of the construction.

On behalf of the respondents, a detailed counter affidavit is filed and the annexures are appended. It is stated that the representation made by Pramila Devi was enquired into, and on finding that the Middle School at Kapasi is better suited for up gradation, the order dated 28.11.2014 was passed.

Heard Ms. Manisha Singh, learned counsel for the petitioner and Sri Anjani Kumar, learned Additional Advocate General-6 for the respondents.

The narration in the preceding paragraphs discloses that after conducting some enquiry, the concerned officials have recommended the up-gradation of the school at Chhathiyara Village and further steps were taken. This included according of administrative sanction and release of adequate funds, for construction of the building. At a stage when the work was nearing completion, expenditure of involving about Rs.25,00,000/-, the Collector passed an order of stopping construction in August, 2014. The basis for him to do that was an order passed in CWJC No.22247 of 2013. A perusal of the order in the writ petition discloses that except that it was left open to the petitioner therein to make a representation, no exception whatever, was expressed over the selection of the School at Chhathiyara for up-gradation or to construction being undertaken there at.

It is the officials of the concerned department that have selected the school at Chhathiyara for upgradation, obviously by applying necessary parameters. The selection was not done by any private agency. Any change as regards selection of the school within the same Panchayat, could have been effected, before any concrete

steps, such as sanction of the funds for building etc. were taken. Once the construction of the building at Chhathiyara was commenced and phenomenal amount of Rs.25,00,000/- was spent, it is just an un-understandable as to how the Collector could have stopped the construction, particularly when this Court declined to interfere.

We would have felt the necessity directing the petitioner to implead the petitioner in CWJC No.22247 of 2013, because we are not expressing any view that the school at Kapasi does not merit consideration. If the population of the Village is so large, the school at Kapasi can also be upgraded, over the period. There again, the factors, such as distance between the village and the existing high school and the number of students available, need to be taken into account. The only factor that weighs with us is that a sum of Rs.25,00,000/- has already been spent for construction of the building and one cannot permit such a construction goes waste.

Therefore, the writ petition is allowed and the order dated 28.11.2014 passed by the Collector, Sheikhpura in Miscellaneous Case No.48 of 2014 is set aside. The respondents are directed to complete the construction of the building at Chhathiyara at the earliest and to commence the school therein.

We make it clear that need of the school at Kapasi shall be examined in terms of the policy decision, and if it needs

consideration, necessary steps shall be taken, notwithstanding the fact that a school is already upgraded at Chhathiyara Village.

Interlocutory application, if any, shall stand disposed of.
There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Sudhir Singh, J)

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