

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2584 of 2015

With

I.A. No.2839 of 2015

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Jean Paul's Montessori School, Ara through its Proprietor Sri Pradeep Kumar Sinha, son of Late Sharda Prasad Sinha, Proprietor, Jean Paul's Montessori School, Ara, resident of Mohalla - Mahavir Tola, Ramna Road, Ara, District - Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Human Resources Development Department, New Secretariat, Patna.
4. The Secretary, Human Resources Development Department, New Secretariat, Patna.
5. Collector and District Magistrate, Ara, Bhojpur.
6. Chief Commissioner, Ara Municipal Corporation, Ara, District - Bhojpur.
7. Superintendent of Police, Ara, District Bhojpur.
8. The SHO, Town Police Station, Ara, Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sarvendra Kumar Verma, Advocate Mr. Jai Vardhan Narayan, Advocate Ms. Aishwarya Riti, Advocate
For the Respondent-State	:	Mr. Lalit Kishore, PAAG Mr. Najmul Hoda Khan, SC-18 Md.Naushaduzzoha, AC to SC-18
For the Municipal Corporation:	:	Mr. Ranjan Kumar Srivastava, Advocate
For the Intervener	:	Mr. Abhisek, Advocate Mr. Prasant Sinha, Advocate Mr. Smriti Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 05-05-2015

A Montessori School at Ara through its proprietor is before this Court complaining of harassment at the hands of the district administration including the police, the authorities of the Education Department as well as the authorities of the Ara Municipal Corporation.



A very innocuous prayer has been made by the petitioner requiring a direction to the respondents not to disturb the peaceful atmosphere of the Montessori school which classes children from Nursery to Standard 8th. The school has the approval of the Education Department bearing Affiliation Code No. BH0H 0050/2012-13.

The grievance of the school in question is that the District Magistrate has by his acts created an atmosphere of fear in the school as for no apparent reason, there is recurrent intrusion of the local police force along with members of district administration as well as education department within the school campus at the directives of the District Magistrate.

It is the case of the petitioner that the man behind the entire matter is the nephew of the petitioner by the name of Manish Sinha and whose sole attempt is to disturb the functioning of the school. The petitioner complains that a book shop opened within the premises of the school by M/s Gyan Ganga was objected to by the nephew of the petitioner and the Commissioner, Ara Municipal Corporation without any opportunity to the petitioner to explain the circumstances came with the police force and sealed the shop on 1.1.2015 at about 1.25 P.M. It is the stand of the school that the shop was to facilitate the students in obtaining their course books as



well as their school uniform but which facility is stopped by the sealing of the premises by the Corporation. It is also the complaint of the petitioner that under the directives issued by the District Magistrate, the school buses are being arbitrarily obstructed by the police authority and the authorities of the Transport Department on the pretext of vehicle checking and even when the school children are present in the bus. The petitioner complains that on 17.10.2014 while one of its buses bearing Registration No. BR 1AP 1973 proceeded to drop the students after school hours that it was stopped near the District Magistrate's residence and sent to the Ara town Police Station by the officers on duty who were completely insensitive to the weeping children present in the bus. It is stated that it is only upon payment of fine that the bus was released and the reasons for its stoppage or imposition of fine is unknown. It is also the complaint of the petitioner that during the school hours suddenly several persons claiming to be officers of the Education Department including the District Education Officer barged into the office of the Principal on the pretext of enquiry.

Mr. Sarvendra Kumar Verma, learned counsel appearing on behalf of the petitioner elaborating on the issues aforementioned submits that by the acts of the district authorities led by the District Magistrate, the municipal authorities as well as the police



authorities, there is a fear psychosis in the mind of the children and the collective attempts of these authorities is to somehow put a closure to the school which is functioning since 1991 without any complaints up till now.

Mr. Lalit Kishore, learned Principal Advocate General has appeared on behalf of the State including the district administration to submit that since a number of complaints have been received in the office of the District Magistrate while holding Janta Darbar that it necessitated a verification of the complaints which mainly charged the petitioner-school of violating the civic norms. It was contended that the school has to comply with the legal requirements and has to appreciate that its functioning do not become a cause of worry and irritation for the neighbourhood. It was contended that the buses plied by the school do not adhere to the civic norms and are parked in unruly manner and even the presence of the book shop within the premises is an obstruction to the passage of the other residents in the area, apart from the fact that no municipal permission was obtained by the school.

Mr. Kishore, while clarifying that there was nothing personal in the action of the District Magistrate submits that the vehicle checking as well as the enquiry made in the school premises were only in pursuance of the complaints so lodged

against the school.

Mr. Lalit Kishore, even while making such submissions agreed that the petitioner school was entitled to a notice before any action was proposed to be taken by the district authorities including the authorities of the education department and any such enquiry has to be made without disturbing the working of the school.

Mr. Ranjan Kumar Srivastava appears for the Ara Municipal Corporation to submit that the school building has been found to be in violation of the municipal laws and that there are constructions which have been made beyond the map sanctioned by the municipal authority. He submits that the Municipal Commissioner has passed orders for demolition of such of the constructions found in violation of the municipal provisions and against which the petitioner has already taken recourse to the remedy of appeal before the Municipal Building Tribunal and the matter is pending in appeal where an order of status quo has been passed.

Learned counsel submits that seal of the shop has since been removed.

An interlocutory application has been filed by one Manish Sinha the complainant who also happens to be the nephew of the petitioner. The complainant Manish Sinha has appeared through

counsel Mr. Prashant Sinha by filing an interlocutory application seeking to intervene in the matter and to assist this Court.

Mr. Prashant Sinha appearing for the intervenor submits that the school is functioning in a residential precincts causing disturbance to all residing within, including the intervenor. He submits that there is a single passage connecting the main road with the other houses situated within the precincts and it is always a problem for the intervenor and his family in the ingress and egress while moving through the 14 ft. passage due to the functioning of the school. He submits that opening of the shop by M/s Gyan Ganga only escalated the problem. It was contended that since there is a single entry to the premises and the functioning of the Gyan Ganga shop was an impediment to the free movement of the other residents within the precincts of the property which is a joint family property that it was complained against. It was the contention of the intervenor that though civic norms have been laid down for functioning of a school but the petitioners school has utterly failed to meet the norms. It is the contention of Mr. Sinha that just as the petitioner prays for protection of his right so is also a right of the peaceful living vested in the intervenor which has to be equally protected.

I have heard learned counsel for the parties and I have

perused the materials on record.

It is rightly contended by Mr. Lalit Kishore learned Principal Additional Advocate General as well as Mr. Prashant Sinha that protection of civic right is not a one sided affair rather it has to along with also respect the rights reserved for other citizens. That the school has obtained permission for its operation and stands allotted an affiliation code from the Education department may be sufficient for the functioning of the school but it has also to recognize the right of peaceful existence vested in other citizens, more particularly the residents in the neighbourhood. No amount of explanation can justify any act which causes disruption in the life and day to day function of the others. Thus just as the school prays for protection of its right, it should also be reminded of its duties to ensure a peaceful atmosphere. Securing a right and performing a duty have to go hand in hand.

While I certainly do not appreciate the manner in which the district administration, the authorities of the education department including the District Education Officer as well as the authorities of the Municipal Corporation have acted in the present matter under a cover of performance of duty, I am also conscious of the nature of the complaints which has prompted such action. The unfortunate part in the contest is that in the process, it is the school



children who are being subjected to the agony and harassment while the tussle between the administration and the school goes on. Certainly, the children cannot be put at the alter of such tussle and the district administration, the police authorities, the authorities of the Education Department as well as the transport authorities have to be conscious that they are dealing with an educational institution and not a serial offender. There has to be a distinct human approach to the issue. This Court would expect that the authorities noticed above would conduct themselves with a sense of rationality for each issue is to be addressed in the manner required. While my observation may not be construed as a condonation of any statutory violation by the school but then as I have said each violation is to be addressed in the manner required and by following a proper procedure. There can be no justification or explanation to the authorities barging in the school during the school hours and when the classes are going on nor there can be any justification for detaining a bus while its carrying the school children. An extreme measure is only required to be resorted in extreme circumstances and not in a routine enquiry.

The complaints made by the local residents including the intervenor may be backed with materials and may require a response from the school but then any proposed action is to be

preceded by a notice and a reasonable opportunity to explain the charges which in my opinion is grossly amiss in the present case.

Having outlined the matter on the rival contentions, I need not delve into the individual complaints at this stage but then this Court would definitely straighten certain issues which would require strict adherence by the parties herein and connected herewith:-

- (a) The District Magistrate, Bhojpur, the Superintendent of Police, Bhojpur, the District Transport Officer, Bhojpur, the District Education Officer, Bhojpur and the Municipal Authorities are directed to issue appropriate guidelines to all concerned to refrain themselves from entering the school premises during the school hours and in case a visit has become necessary, the same should be done after school hours and with due intimation to the school administration;
- (b) Any complaint received against the school should not be a reason to straightaway intrude in the school functioning rather the proper procedure for enquiry thereof, should be followed;
- (c) Should any complaint require a physical verification, the proposed action should be preceded

with an opportunity to the school to explain the circumstances;

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- (d) In case the district administration, the transport authorities or the local police authorities require the presence of the school buses for physical/paper verification, they should issue such advisory to the school giving them advance notice for its production bearing in mind the school hours and certainly not during the transportation of the school children;
 - (e) The authorities of the District administration, Police, Transport and Education department would ensure that the children are never at the centre of the proposed action.
 - (f) There being a single entry to the school premises which is also a passage for the other residents in the precincts, the petitioner school would not create any obstruction to the passage by making any construction, opening any shop, parking any vehicle or by any other mode whatsoever;
 - (g) The 14 ft. pathway should be free for ingress and egress for all residing within the precincts which obviously would also include the intervenor;

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- (h) The school authorities would ensure that its buses are parked at a proper parking place earmarked for the purpose so as not to cause obstruction or any kind of difficulty for the residents or moving vehicles;
- (i) The petitioner school would ensure that its school buses comply with the statutory norms.
- (j) The school authorities would make alternative arrangement for putting up the book stall by M/s Gyan Ganga so as not to cause any obstruction to general public.

The school authorities as well as the respondent authorities would be required to strictly adhere to the directives aforesaid which may not be exhaustive but are indicative enough of the respective responsibilities of the contesting parties herein.

The writ petition and the interlocutory application are disposed of accordingly.

(Jyoti Saran, J)

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