

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 459 of 2014

IN

Civil Writ Jurisdiction Case No. 20144 of 2012

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1. Kishan High School, Badakar, Block-Silao, District-Nalanda, through its Secretary, Vijay Kishore Yadav, Son of Late Prasadi Yadav, resident of Village-Badakar, P.S.-Rajgir, District-Nalanda.
 2. Sri Vijay Kishore Yadav, Son of Late Prasadi Yadav, resident of Village-Badakar, P.S.-Rajgir, District-Nalanda, at present working as Secretary, Kishan High School, Badakar, Block-Silao, District-Nalanda.

.... Petitioners/Appellants

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Secondary Education, Govt. of Bihar, Patna.
3. The District Education Officer, Nalanda.
4. The District Programme Officer (Establishment), Nalanda.
5. The Block Education Officer, Block-Silao, District-Nalanda.
6. The Bihar State Educational Infrastructure Development Corporation Ltd., Shiksha Bhawan, Bihar Rashtrabhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna through its Managing Director.
7. The Managing Director, Bihar State Educational Infrastructures Development Corporation Ltd., Shiksha Bhawan, Bihar Rashtra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna.
8. Urdu Middle School, Badakar, Block-Silao, District-Nalanda through its Headmaster.
9. The Project Director, Bihar Madhyamik Shiksha Parishad, Budh Marg, Bihar Intermediate Council, Patna.

.... Respondents/Respondents

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Appearance :

For the Appellants : Mr. Suraj Nr. Yadav, Advocate

For the Respondents : Mr. Sanjay Prakash Verma, A.C. to G.A.-1

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 10-08-2015

The appellants in the present Letters Patent Appeal are aggrieved by an order, dated 29/10/2013, passed by the learned Single Judge, in C.W.J.C. No. 20144 of 2012, whereby the writ application filed by the appellants has been dismissed.

2. Appellant No. 1, namely, Kishan High School, Badakar, in the district of Nalanda, is the privately run school, whereas, appellant No. 2 claims to be the Secretary of said school. They were petitioners in C.W.J.C. No. 20144 of 2012. They challenged a tender, invited by the Bihar State Educational Infrastructures Development Corporation Limited, for construction of the buildings of the schools at different places in different districts, including one school, at Silao, in the district of Nalanda, on the ground that the Government school, sought to be established at Silao in the district of Nalanda, was very near to the appellants' school. The appellants questioned the establishment of said Government school near already existing private school

being in teeth of the policy decision of the State Government that the school should not be opened within the radius from 5 kilometers from existing school. The learned Single Judge rejected the appellants' claim, recording that the policy of the State Government, as relied upon by the appellants, is applicable to the case of Government school and if a Government school existed at a place from before there, then, in that case, another Government school may not be opened within the radius of 5 kilometers.

3. We do not find any infirmity in the reasoning assigned by the learned Single Judge, while dismissing the writ application. Secondly, we are of the opinion that the appellants, who run a private school, do not have any *locus standi* to resist establishment of a Government school nearer to the said private school. In our opinion, it is a frivolous appeal, which deserves to be dismissed in *limine* and is, accordingly, dismissed.

(I. A. Ansari, ACJ.)

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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