

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1618 of 2015

Anand Kumar Gupta S/o Late Shri Atri Lal Gupta, Aged About 52 Years R/o Purana Bazaar Para, Behind Dhaan Mandi, Post, P. S. & Tehsil Surajpur, Revenue & Civil District Surajpur, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, School Education Department, Mahanadi Bhawan, Naya Raipur, Revenue & Civil District Raipur, (Chhattisgarh)
2. Directorate, School Education, Raipur, Revenue & Civil District Raipur, (Chhattisgarh)
3. District Education Officer, Surajpur, Revenue & Civil District Surajpur, (Chhattisgarh)
4. Block Education Officer, Surajpur, Division, Ambikapur, Revenue & Civil District Sarguja, (Chhattisgarh)
5. Collector, Surajpur, Revenue & Civil District Surajpur, (Chhattisgarh)
6. Principal, Government Boys Primary School Surajpur, Revenue & Civil District Surajpur, (Chhattisgarh)
7. Principal , Government Girls Primary School, Surajpur, Subhash Chowk, Surajpur, Revenue & Civil District Surajpur, (Chhattisgarh)

---- Respondents

Shri Surfaraj Khan, Advocate for the petitioner.
Shri S.P. Kale, Dy. G.A. for the State along with Shri A.P. Ekka, District Education Officer, Surajpur is present in the Court.

Order On Board

17/09/2015

Heard.

1. This petition has been filed by the petitioner assailing decision of merger on following grounds -

(i) Incorrect information was submitted by District Education Officer to the Government that there are only 16 girls students whereas 54 girls students are studying in the primary girls school which is established and running since 1950. This fact was suppressed and not

disclosed to the Government.

(ii) It has been incorrectly reported that both the schools are running in the same premises. It was not disclosed that the main girls primary school which was operating in another building since 1950, has been shifted to the present location only in the year 2004 and that too illegally. Therefore, for all purposes, the issue with regard to both the buildings being situated in the same premises was required to be examined in this correct perspective.

(iii) There is no specific material with the respondents to show that the Boys Governments School is operating since 1933. This is imaginary.

(iv) The constitution of the committee is illegal because the Collector was not intruded in the committee.

2. On the other hand, learned counsel for the State opposes and submits that the issue relating to number of students is relevant only when the number of students is less than 10. The girls school was operating since 1950 but the building, in which it is being run is one which is adjacent to the boys primary school. This arrangement is going on since 2004 without any challenge. A categoric stand has been taken by the respondent supported by documentary evidence with regard to boys primary school running since 1933 and there is no material to the contrary placed by the petitioner. The issue with regard to constitution of committee has not been raised in the writ petition.

3. The Government Policy relating rationalization does not indicate that number of students if more than 10, where it be 16 or 54 would make any difference in taking decision. The case of the petitioners has been built up on the ground that the earlier building in which the girls school was operating since 1950 has been earmarked and used as office of District Education Officer since 2004 and therefore, for all purposes of calculating distance that building should be taken into consideration.

4. This contention is liable to be rejected. For the purposes of rationalization, the building in which the girls school is presently being run has to be taken into consideration. The present building, where girls school is being run, is continuing since 2004 which has not been challenged, therefore, in order to ascertain the distance between the two buildings, the present building where the girls school is running has to be taken into consideration and no other building. The respondents have categorically stated on affidavit coupled with documents that the boys primary school is running since 1933. Therefore, contention of the petitioner in this regard cannot be accepted and liable to be rejected.

In the petition, no specific ground has been raised with regard to illegality of the action

based on constitution of committee. The decision which has been taken by the committee includes Additional Collector. The constitution of committee is not under any statutory provision but only under administrative guidelines. Therefore, irregularity if any, in such a constitution, would not, perse, invalidate the administrative action of the respondent.

5. In the result, I do not find any merit. However, before parting with the case, this Court has to be observe the lavatory facility in the school for boys and girls should be separate and properly maintained. As far as, lack of infrastructure that is less number of room is concerned, the respondent is directed to make necessary arrangements in that regard. Appropriate proposal for construction of additional room shall be made by the District Education Officer with the Government and all endeavour shall be made to improper infrastructure of the school keeping in view the requirement of class rooms, office, extracurricular activities, lavatory facility, playground for the students and also proper drinking facilities. The aforesaid infrastructure requirement shall be reviewed by the Collector of District Surajpur after six months and if any, deficiency is found, the Collector shall issue necessary direction.

6. With the aforesaid observations/directions, the petition is finally disposed off.

Sd/-

Manindra Mohan Shrivastava

J U D G E