

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4102 of 2014

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Dr. Jamini Biswas, Son of Late Rajendra Nath Biswas, Resident of village -
Banauli, P.O. and P.S. - Chenari, District - Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna
3. The District Magistrate, Rohtas at Sasaram
4. The District Education Officer, Rohtas at Sasaram
5. The Principal, Ram Dulari Ganga High School, Chenari, Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Hemendra Prasad, Sr. Advocate.

For the Respondent/s : Mr. Alok Kumar Rahi, AC to GP-21

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 17-11-2016

Heard learned counsel for the petitioner and the State.

2. The petitioner has moved the Court for a direction to the respondent authorities to let him continue construction of his shop on the land leased by the school, on which such construction has been stopped for the last 11 years under the orders of the District Magistrate, Rohtas, Sasaram, with a further prayer to quash the order of the District Magistrate, Rohtas, Sasaram dated 24.03.1999 by which he had directed the Principal of the school to stop construction work, as it was without approval of the Principal Secretary, Education Department prior to leasing of the land of the school.

3. The petitioner claims to have been allotted a piece of land of a Government school pursuant to recommendation of the Managing Committee of the school dated 07.02.1996. The said

proposal appears to have resulted in a lease deed being registered in favour of the petitioner on 24.10.1998. However, pursuant to the direction of the District Magistrate, Rohtas, Sasaram, which is also impugned herein, dated 24.03.1999, the construction, which was started by the petitioner, has been stopped.

4. Learned counsel for the petitioner submitted that the decision of the Managing Committee of the school in question was with a view to enable such school to earn something out of the surplus land, which was vacant and was beyond the required need of the school and also to prevent any encroachment on the same. It was further submitted that the Public Accounts Committee of the Bihar Legislative Assembly has also later on in the year 2012, recommended for such settlement of land and, thus, the decision taken by the Managing Committee in favour of the petitioner for lease of the land is in accordance with law.

5. Learned counsel for the State refers to Annexure-A of his counter affidavit, which is a copy of the order dated 16.10.2001 passed in CWJC No. 9587 of 2001, filed by similarly situated persons challenging the order of the District Magistrate, Rohtas, Sasaram dated 24.03.1999 for restraining the school authorities from making settlement of land, and the same was disposed off holding that no direction can be issued allowing the petitioner either to construct shops or to run business in the shops on the basis of the decision taken



by the Managing Committee of the school in spite of prior approval of the District Education Officer. The Court took serious note of the issue and the Secretary, Human Resources Department was also directed to enquire into the matter and take appropriate action against the Headmaster of the school concerned, the office bearers of the Managing Committee and the concerned District Education Officer. He was further directed to submit a report with regard to action taken by him.

6. Having considered the matter, the Court does not find any merit in the present writ application. The ground taken by the petitioner that the Public Accounts Committee had recommended for such settlement of the land of the school with the specific purpose to prevent its wastage and encroachment and to earn some revenue for the school, does not seem to be relevant in the present case. The recommendation of the Public Accounts Committee is of the year 2002 and, thus, the settlement of the land in favour of the petitioner by the Managing Committee in the year 1995, is patently illegal and beyond jurisdiction and very clearly it has been made for obvious illegal considerations. The Court refrains from taking any view of such recommendation of the Public Accounts Committee as the same is not relatable to the facts and circumstances of the present case. Public land, specially in public schools, cannot be settled for any purpose except those related to the school and even if nothing has to

be constructed on it, it has to be left open for the children to enjoy and utilize the space, and even the public at large can make use of such open land for recreational purposes at times which do not interfere with the working of the school, but in no case, such land can be settled with private persons, for commercial purpose. The manner in which the same has been done, is shocking.

7. Having been made aware of the order of this Court dated 16.10.2001 in CWJC No. 9587 of 2001, wherein there was a direction to the Secretary of the Human Resources Department to enquire into the matter and take appropriate action and report to be submitted, since, nothing has been brought on record by the State, the Court directs the respondent no. 2 to take the matter to its logical conclusion within four months positively failing which the Court may take strict note of such violation.

8. In view of the discussions made hereinabove, the writ application, being devoid of merit, stands dismissed.

9. Registry shall send a copy of the order to respondent no. 2 forthwith for compliance.

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	25.11.2016
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