

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.107 of 2017

Arising out of

Civil Writ Jurisdiction Case No. 16002 of 2016

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1. Ramadhar Pandit son of Late Chandeshwar Pandit Resident of Village - Jaharbiga, P.O. - Saidabad, P.S. - Kako, District - Jehanabad.
 2. Dinesh Yadav son of Late Girwal Yadav Resident of Village - Jaharbiga, P.O. - Saidabad, P.S. - Kako, District - Jehanabad.
 3. Deepnarayan Pandit son of Rajnandan Pandit Resident of Village - Jaharbiga, P.O. - Saidabad, P.S. - Kako, District - Jehanabad.
 4. Kedar Pandit son of Late Chandeshwar Pandit Resident of Village - Jaharbiga, P.O. - Saidabad, P.S. - Kako, District - Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Vikash Bhawan, Bailey Road, Patna.
2. Director Primary Education, Education Department, Government of Bihar, Vikash Bhawan, Bailey Road, Patna.
3. District Education Officer, Jehanabad.
4. District Magistrate, Jehanabad.
5. Circle Officer, Kako, Jehanabad.
6. District Programme Officer, Sarv Shiksha Abhiyan, Jehanabad.
7. Incharge Officer, District Revenue Section, Jehanabad.
8. Superintendent of Police, Jehanabad.
9. Baidyanand Paswan Son of Late Sardaru Paswan resident of village - Jahar Biga, P.S. - Kako, District - Jehanabad.
10. Somar Paswan son of Late Khiru Paswan resident of village - Jahar Biga, P.S. - Kako, District - Jehanabad.

.... Opp. Party/s

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Appearance :

For the Petitioners	:	Mr. Siddhartha Prasad, Advocate
For the State	:	Mr. Ashutosh Ranjan Pandey, AAG 15
For Opp. Parties No. 9 and 10	:	Mr. Kishore Kumar Thakur with Mr. Rajesh Kumar, Advocates.



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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 21-06-2017

Heard learned counsel for the petitioners, State and the opposite parties no. 9 and 10.

2. The present application has been filed seeking review of the order dated 23.02.2017 passed in C.W.J.C. No. 16002 of 2016 by which the writ petition was disposed off on the basis of the stand of the State authorities that construction of the school in question would be on the land donated by the writ petitioners totalling 10 decimals.

3. The present petitioners contend that the school was sanctioned for Jahar Bigha whereas due to misrepresentation, the opposite parties no. 9 and 10 only on paper have claimed that the land donated by them is in Jahar Bigha whereas the same is in Sabur Bigha.

4. Learned counsel for the petitioners submitted that initially the school in question was being built in Jahar Bigha on plot no. 134 and funds had also been sanctioned and tender finalized and only due to intervention of the Court earlier in C.W.J.C. No. 16002 of 2016, the authorities took a u-turn and accepted the contention of the respondents no. 9 and 10 and based on such stand before the Court, the Court had disposed off the aforesaid writ petition. Learned counsel



submitted that the school being sanctioned for Jahar Bigha and there being land available in Jahar Bigha and also tender floated having been finalized, the contractor selected, money sanctioned and transferred for such purpose followed by start of construction, only due to misrepresentation by the opposite parties no. 9 and 10 and further erroneous appreciation by the officials has led to the situation where the school is now being constructed in Sabur Bigha and most surprisingly, out of more than 100 students, all are either from Jahar Bigha or Mundichak whereas there is not even one student from Sabur Bigha where the school is being constructed. Learned counsel submitted that the land on which initially the construction was being rightly started in Jahar Bigha was a suitable government land and thus, there was no controversy with regard to its construction.

5. Learned counsel for the opposite parties no. 9 and 10 has contested the factual position.

6. Learned counsel for the State though has filed counter affidavit but from the same it transpires that there is contradictory stand by the concerned Circle Officer when at one place he states that difference between Jahar Bigha and Sabur Bigha is about 40-50 metres whereas in another communication he states that there is no official demarcation between the said two areas.

7. The Court is of the opinion that the matter basically



relates to coming to a specific finding as to whether Jahar Bigha is distinct and separate from Sabur Bigha for which spot enquiry is required. At this stage, learned counsel for the parties agreed to the matter being referred to a High Powered Committee chaired by the District Magistrate, Jehanabad to get the matter verified and accordingly for taking further action.

8. In view of the fact that the Court has found that the matter requires detailed field verification, the order dated 23.02.2017 passed in C.W.J.C. No. 16002 of 2016 is clarified to the extent that it shall not be an endorsement and approval of the authorities constructing the school in question on the land donated by the opposite parties no. 9 and 10.

9. Accordingly, the review application stands disposed off with a direction to the District Magistrate, Jehanabad to constitute a High Powered Committee chaired by him which shall look into the factual aspect both with regard to where the government has sanctioned the school and as to whether the school which has been sanctioned as New Primary School, Jahar Bigha could have been build on government land in Jahar Bigha rather than in any adjoining *tola* including Sabur Bigha. Such enquiry shall be conducted after notice to the parties to be present at the time of actual field verification. Thereafter, the parties shall also be allowed to present



their case by personal hearing by the District Magistrate, Jehanabad in support of their respective cases and they shall also be allowed to bring on record cogent materials on which they rely and which shall be taken note of by the District Magistrate, Jehanabad at the time of finally preparing his report. The District Magistrate, Jehanabad shall not be encumbered with any report submitted earlier on the issue by any authority including himself earlier as the same appears to be done in haste without there being any actual and thorough exercise undertaken. Depending upon the finding of the District Magistrate the school in question shall be built on government/donated land which is found to be more representative of the place for where the school has been sanctioned by the State Government. The Court would only like to indicate that during field enquiry and on all dates of hearing the District Magistrate, Jehanabad shall be personally present along with any other officers, he may want to co-opt in his team. It is further clarified that if despite of the parties being noticed with regard to the date, time and place of inspection, if they do not appear, the District Magistrate and the Committee shall not wait for them and shall proceed with their enquiry in accordance with law and in terms of the direction given in this order.

10. The said exercise be concluded within four weeks from the date of production of a copy of this order before the District



Magistrate, Jehanabad (Opposite Party No. 4). The interim stay granted by order dated 12.04.2017 shall abide by the final report of the District Magistrate, Jehanabad in terms of the present order.

11. It is noted that all parties have consented to this order.

(Ahsanuddin Amanullah, J)

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