

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17941 of 2016

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1. Md. Nadaf, son of late Ismail Nadaf
2. Shambhu Jha son of late Pitamber Jha
3. Ganesh Chander Jha son of Dani Jha
4. Mukesh Jha son of Chander Bhushan Jha
5. Bharav Jha son of late Dani Jha
All residents of Village- Paghari, Thana- Biraul, District- Darbhanga, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue and Land Reforms Patna, Bihar.
2. Principal Secretary, Department of Minority Welfare, Patna, Bihar.
3. District Magistrate, Darbhanga, Bihar.
4. Circle Officer, Biraul, District Darbhanga, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Shama Sinha, Advocate

For the Respondent/s : Mr. Mukul Prasad, A.C. to G.P. 18

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-05-2017

In this writ petition filed in public interest, petitioners seek a *mandamus* directing the respondents not to block the road joining the residents of Village- Paghari in district Darbhanga to their fields. It is the case of the petitioners that a graveyard is being constructed in Village Paghari situated in Biraul Tehsil of Darbhanga district and the graveyard is being constructed in such a manner that a road which is used by the villagers for approach to their field may be obstructed to some extent. *Inter alia* contending that there is already in existence a



graveyard which can be used and further contending that it is not necessary to construct the graveyard and obstruct the road, the writ petition has been filed in public interest.

The competent authority of the State Government has filed a detailed reply and from the reply filed by the respondents it is seen that there had been communal tension with regard to the matter and various justifications have been given to show that construction of the graveyard has been done after proper demarcation and identification of the area and after ensuring that there is no hindrance into the road.

Taking note of the counter affidavit and the dispute in hand we find that the dispute pertains to use of certain area in the village in question. The district administration has taken action in the matter after taking note of the interest of all concerned and it is not appropriate for a Writ Court exercising extraordinary jurisdiction in a petition under Article 226 of the Constitution to go into various aspects of the matter and issue a *mandamus*, instead, as the District Magistrate and the other authorities are already seized of the matter and we find that they have already taken various action in the matter, no case is made out for any indulgence into the matter, particularly when the authorities have taken action in the matter.

Accordingly, finding no ground for interference, the writ petition stands disposed of with liberty to the petitioners to take up



the issue with the competent authority and it would be for the competent authority to take action in the matter.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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