

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7834 of 2018

Md. Firoz Nawaz, S/o- Late Md. Isha, R/v- Narasara, P.S.- Bishanpur,
District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The State Project Director, (Secondary Education Council) State of Bihar, Patna.
4. The Director, Secondary Education, Govt. of Bihar, Patna.
5. The Collector-Cum- District Magistrate, Darbhanga.
6. The District Education Officer, (DEO), Darbhanga.
7. The District Program Officer, Darbhanga.
8. The Circle Officer, Hanuman Nagar, District- Darbhanga. null null
9. Upgraded High School, Narsara, Block- Hanuman Nagar, P.S.- Bishanpur, District- Darbhanga through its Head Master.
10. Upgraded High School, Hanuman Nagar, Block- Hanuman Nagar, P.S.- Bishanpur, District- Darbhanga through its Head Master.
11. Bihar Secondary School Examination Board, Patna through its Secretary.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar, Advocate
For the Respondent/s	:	Mr. Madanjeet Kumar, GP-20
For the BSEB	:	Mr. Partha Sarthi
		Mr. Apurva Kumar, Advocates

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 24-04-2018

This writ application has been filed seeking quashing of letter No. 656 dated 06.04.2018, issued by the District Education Officer, Darbhanga, whereby he has directed the Principal of the Middle School, Narsara, Hanuman Nagar, Darbhanga to issue transfer certificate in favour of the students who were studying in the School in Class-IX and allow education up to the level of 'Middle' only in the said School in



the light of order of this Court passed in CWJC No. 11562 of 2015. The said letter has been brought on record by way of Annexure-10 to the writ application.

2. The petitioner claims himself to be the guardian and father of one Mahwish Praween, a student of Class-IX in the said School. It is being asserted that the School was selected for up-gradation from Middle School to High School in 2011-12 and was notified as upgraded High School in 2014-15. Another School, namely, upgraded High School, Hanuman Nagar is also located in the same Gram Panchayat, Narsara, which was established as a Primary School when the petitioner's School was selected for up-gradation. The petitioner does not dispute that the other School, i.e., upgraded High School, Hanuman Nagar was upgraded as Middle School in 2012-13. According to the petitioner, there were altogether 201 Schools proposed for up-gradation in the year 2013-14 under Rastriya Madhyamik Shiksha Abhiyan (RMSA), which included the School in question. Under the direction of the District Programme Officer, Secondary Education number of students have been admitted. Subsequently, by order dated 16.04.2015, the District Education Officer had stayed the earlier order under which admissions were to be allowed. It appears that on the ground that the



Middle School, Narsara did not have adequate land for requisite for up-gradation, the decision for up-gradation of the School was cancelled and it was decided to shift all the admitted students to nearby other Schools through letter dated 11.06.2015, (Annexure-2), issued by the Director (Secondary Education), Government of Bihar. It transpires that subsequently by letter dated 22.06.2015, the Principal Secretary directed the District Education Officer, Darbhanga to maintain *status-quo ante* in respect of the School as the same existed before 11.06.2015.

3. The petitioner contends that the very ground of inadequacy of land for up-gradation of Narsara Middle School is unfounded inasmuch as land available for the said School is much more than the School, which has been decided to be upgraded. According to the petitioner, there is large track of vacant *Gair Majrua Aam* land available just in the *vicinity* of Middle School Narsara. It appears that ward member of the concerned Gram Panchayat had approached this Court by filing a writ petition, challenging the decision of the State respondents to cancel the up-gradation of Narsara Middle School. However, in view of subsequent order of the Principal Secretary for maintaining status-quo, this Court refused to entertain the writ



application and disposed it of with an observation that the Principal Secretary would be well advised to take a final decision. It is in the background of the said observation of this Court made in the order dated 17.09.2015, passed in CWJC No. 11562 of 2015, it appears, that a final decision has been taken cancelling the Code of the School which has been communicated through impugned letter dated 06.04.2018. It also appears that the Mukhiya of the Narsara Gram Panchayat had filed a writ application under public interest litigation before this Court being CWJC No. 16921 of 2016, which has been permitted to be withdrawn by order dated 28.03.2017. Though it is not evident from the pleadings and annexure brought on record as to what was the relief sought in the said CWJC No. 16921 of 2016, it has been stated at the bar that the same related to cancellation of the decision of the State Government to upgrade the Middle School, Narsara.

4. Which School is to be upgraded and which is not to be upgraded is a matter to be decided administratively by the executive. This Court does not have the judicially determinable parameters to adjudicate the correctness of such decision, which is purely administrative in nature. Interference of this Court exercising power of judicial review under Article 226 of the



Constitution of India may be warranted only, if there is breach of law having consequence of depriving someone’s legal or constitutional right.

5. I do not find any cogent reason to interfere with the decision of the State respondents.

6. I do not find any merit in this application.

7. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01.05.2018
Transmission Date	N/A

