

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2865 of 2019

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Krishna Prasad, son of Late Hira Singh, resident of Mohalla- Station Road at
and P.S. Fatuha, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar at Patna.
2. The District Collector, Patna.
3. The District Land Acquisition Officer, Patna.
4. The Additional District Land Acquisition Officer, Patna.
5. The District Education Officer, Patna.
6. The Sub-Divisional Officer, Patna City, Patna.
7. The Circle Officer, Fatua, District- Patna.
8. The Block Education Officer, Fatua, District- Patna.
9. The East Central Railway through its General Manager, Hajipur Zone at
Hajipur.
10. The Mukhiya, Gram Panchayat Masarhi, Block- Fatua, District- Patna.
11. The Principal Secretary, Land and Revenue Department, Govt. of Bihar,
Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Sinha, Sr. Advocate. Mr. Bhola Kumar, Adv. Mr. Ashish Sinha, Adv.
For the Respondent-State	:	Mr. Ashutosh Ranjan Pandey, AAG-15 Mr. Shashi Shekhar Tiwary, AC to AAG-15
For the Respondent-Railways:		Mr. S.D. Sanjay, Addl. S.G. Mr. Kumar Priya Ranjan, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 13-05-2019

Heard Mr. Alok Kumar Sinha, learned senior counsel
appearing for the petitioner along with Mr. Bhola Kumar, the



Advocate on record, Mr. Ashutosh Ranjan Pandey, learned Additional Advocate General No. 15 who appears with Mr. Shashi Shekhar Tiwary, learned Assisting Counsel to Additional Advocate General No.15 and Mr. Kumar Priya Ranjan, learned counsel appearing for the Railways.

The writ petition had been filed in public interest because the functioning of the primary school at village Satauli Bujurg, Block- Fatuha, P.S. Gaurichak, District Patna was being disturbed by execution of a railway project. Consequentially, the school was being shifted in a nearby upgraded school and what concerned the petitioner raising in public interest is that the identity of the primary school could not be wiped out even if the arrangement could be temporary.

It is on being put on notice that the State in its Education Department did what was the most convenient and that is to withdraw the order whereby the primary school was kept functional in the nearby upgraded school. This disturbed the Railways because they needed the land which had been acquired more than a decade back for laying the railway line and but for the existence of the school, it could not be completed. In so far as the issue raised in the public interest litigation is concerned, the cancellation order satisfies the petitioner because the school is not



going to be disturbed any more but since by such action the railway project was obstructed that Mr. S. D. Sanjay, learned Additional Solicitor General drew the attention of this Court on the strange position. This Court taking note of the fact that one issue of public interest if satisfied, was proving detrimental to another which again was in larger public interest i.e. completion of the railway project that we decided to put the Principal Secretary, Education Department and the Principal Secretary, Revenue and Land Reforms Department on notice as to why, where the acquisition proceeding stood completed in the year 2006, the land was not being handed over to the Railways and the school had not been reallocated at a nearby place.

Since the Principal Secretary, Revenue and Land Reforms Department was not a party that he was added as a party and the two heads of the Department were directed to ponder over the issue and file their response. This order was passed on 02.05.2019 and it is in compliance of our order which elaborately discusses the issue that a purposeful affidavit is filed and perhaps paragraph 7 and 8 of the supplementary counter affidavit filed at the instance of the Principal Secretary, Education Department and the newly added Principal Secretary, Revenue and Land Reforms Department through the Director, Primary Education, Bihar, Patna



would resolve the matter because while temporarily shifting the primary school in a nearby upgraded school which is stated to be barely a kilometer away, they have also demarcated the plot/area over which the primary school is to be reconstructed within a period of one year next.

For the purpose, we reproduce the stand taken by the concerned head of the Department(s) at paragraph 5, 6, 7 and 8 of the affidavit which completely resolves the matter and thus while reminding the two heads of the Department to ensure that the authorities concerned take steps for giving effect to their undertaking given before this Court and abide by the timeline, we proceed to dispose of this writ petition:

“5. That in terms of decision taken in the meeting dated 06.05.2019, physical inspection of the school as well as adjacent land bearing Khata no.107, Plot no.279 was done by the assigned authorities and a report thereof along with all relevant documents has been submitted by the Circle Officer, Fatuha to the District Education Officer, Patna vide his letter no.747 dated 07.05.2019 reporting therein that the school building shall be constructed over the part of the land (15 decimals) bearing Khata no.107, Plot no.279.

6. That in view of report submitted by the Circle Officer, Fatuha, a proposal has been received from the District Magistrate & District Education



Officer, Patna vide letter no.1659 dated 07.05.2019 proposing therein that over the 15 decimals land out of 80 decimals of Khata no.107, Plot no.279 which a Gairmazarua-Aam (Khanta) land, the school building can be constructed, for which the general body of Gram Panchayat Masadhi has also consented.

7. That with regard to 2nd decision regarding shifting/adjustment of the school in question in any other school as an interim measure, it has been proposed by the District Education Officer, Patna vide his letter no.1658 dated 07.05.2019 that Upgraded Middle School, Bindauli, Fatuha is falling within a radius of 1 Km. from the school in question and the same shall be temporarily adjusted in the said school.

8. That in view of the proposals submitted by the District Magistrate, Patna, it is pertinent to state here that appropriate land for construction of school building has been demarcated which is nearby to the school in question and meeting the contention of the petitioner as well. It is further submitted that the school building shall be constructed over the said land within a year and further, when the railway will start construction work of railway line, the school in question shall be adjusted in the school, proposed by the District Education Officer, Patna as an interim measure.”

Since the railway project needs to be completed expeditiously let the Principal Secretary, Education Department



take expeditious measures for the temporary shifting of the school in the nearby upgraded school because we do appreciate the predicament of the Railways on the delayed completion of the project.

With the observation above, we dispose of this writ petition.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Anjula/Skpathak

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	12.06.2019
Transmission Date	NA

