

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3132 of 2017

Arising out of

Civil Writ Jurisdiction Case No.20820 of 2012

Deodhira Sanskrit Uchcha Vidyalaya, Deep, Madhubnai, through its in Charge Headmaster Kedar Nath Jha, son of late Lekh Nath Jha, resident of village and post- Deep, Via- Jhanjharpur, P.S.- Madhepur, Block- Lakhnaur, District- Madhubani, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sri Shir Sharth Kapil Ashok, s/o not known to the petitioner, the Collector of District (D.M.), Madhubani.
3. Sri Vimal Kumar Mandal, s/o not known to the petitioner, the Sub-Divisional Officer (S.D.O.), Jhanjharpur, Madhubani.
4. Sri Chandra Shekhar Kumar, s/o not known to the petitioner, the Anchala Adhikari (C.O.), Lukhnaur, District- Madhubani.
5. Aamira Devi, wife of Rameshwar Rai.
6. Rameshwar Rai.
7. Kailash Rai.
8. Ram Bilash Rai, all are sons of Late Surendra Rai, all serial Nos. 5-8 are residents of village and P.O.- Deep, (Paschami Deep), Purvi Tola, P.S.- Madhepur R.S. Jhanjharpur, District- Madhubani Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar Jha, Advocate Mr. Shashi Nath Jha, Advocate
For the Opposite Party/s	:	Mr. Khurshid Alam, AAG-12
For Opposite Party Nos.5 to 8	:	Mr. Yogendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 27-09-2019

Heard learned counsel the petitioner and learned AAG-12 for the State.

2. Pursuant to the order dated 29.08.019, the District Magistrate, Madhubani; In-charge Sub Divisional Officer,



Jhanjharpur, as well as Anchal Adhikari, Lukhnaur, are present.

They have filed their separate show cause.

3. At the very outset, the District Magistrate, Madhubani, has tendered unconditional and unqualified apology. He further submitted that order passed by him on 13.12.2017 by which he has closed the proceeding on the ground that some of the affected persons had filed a review petition before this Court was an inadvertent act on his part without there being any intention to disobey or violate the Court's order.

4. He has further submitted with regard to the practical situation under which the District Magistrate works. Though the order recorded by him, specially the penultimate paragraph, is nothing short of gross contempt of Court, but as the officer has been honest to the Court, the Court feels that he is entitled to indulgence of the Court.

5. Coming on merits, from the materials on record and the short video recording, which this Court has seen today, upon a Laptop from the Computer Section being called and CD played, it appears that the encroachments in question, have been removed.

6. Further, from the stand taken in the show cause filed today, the situation appears to be alarming in the sense that if the version of the authorities is taken to be correct, the school in



question, has managed to get *Jamabandi* created in Register II by playing sheer fraud, which may be evident from insertion of a separate page in the Register-II without there being any basis for the same, which also apparently cannot be done without the connivance of the then Anchal Adhikari, Lakhnaur.

7. The District Magistrate, Madhubani, took a categorical stand that not only departmental proceeding but also criminal case would be instituted against the person, who had committed such fraud and is presently posted as Block Development Officer, Khutauna, in the district of Madhubani itself.

8. It was submitted that the land is of the State Government and there is no order of any settlement in favour of the school or any other person even till today and the correct position is that the same land has to be treated as Government land.

9. Having considered the matter, the Court finds that once the encroachment is removed, which even otherwise is required to be removed, more so when the land was Government land, the authorities are, now, required to ensure that there is no fresh encroachment. With regard to cancellation of settlement and other issues, the authorities are at liberty to initiate appropriate



proceeding in accordance with law. The Court would only indicate that fraud vitiates any action taken based on the same, and thus, in the present case if fraud is established, then the entire picture will change and the authorities shall have the liberty to go into all aspects of the matter de novo without being prejudiced or handicapped by any order passed earlier which may be in favour of school or any other person(s).

- 10. In view thereof, nothing further remains in the application.
- 11. Accordingly, the same stands disposed off.
- 12. Personal appearance of the officers stands dispensed with.

(Ahsanuddin Amanullah, J)

J. Alam/-

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