

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.15385 of 2019**

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1. Umesh Sharma (M), aged about 55 years, son of Late Ishwar Sharma, resident of village + P.O.- Dehuni, P.S.- Bhushi, Distt.- Jehanabad.
2. Budhdeo Prasad, aged about 62 years, son of Late Karu Prasad, resident of village + P.O.- Dehuni, P.S.- Bhushi, Distt.- Jehanabad.
3. Mundarik Manjhi, aged about 62 years, son of Late Nanhak Manjhi, resident of village + P.O.- Dehuni, P.S.- Bhushi, Distt.- Jehanabad
4. Rakesh Kumar, aged about 51 years, son of Late Rajendra Sharma, resident of village- Dehuni, P.S.- Bhushi, Distt.- Jehanabad.
5. Parmod Kumar, aged about 57 years, S/o Late Kameshar Sharma, resident of village- Bishunpur, P.O.- Mohidinpur, P.S.- Ghosi, Distt.- Jehanabad.

... .. Petitioners

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The Director, Bihar Education Project Council, Bihar, Patna
5. The District Magistrate, Jehanabad.
6. The District Education Officer, Jehanabad
7. The District Programme Officer, Secondary Education, Jehanabad
8. The Block Education Officer, Ghosi, Jehanabad.
9. The Circle Officer Ghosi, Jehanabad.

... .. Respondents

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**Appearance :**

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| For the Petitioner/s | : | Mr. Prabhat Ranjan Singh, Advocate |
| For the State        | : | Smt. Shilpa Singh, GA-12           |
|                      |   | Mr. Ranjan Kumar, A.C. to G.A.-12  |
| For the B.E.P.C.     | : | Mr. Girijesh Kumar, Advocate       |

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**and**  
**HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)**

**Date : 23-08-2019**

Heard learned counsel for the parties.



Learned counsel for the petitioners seeks permission to delete the name of respondent no.10 from the cause title.

Permission, as prayed for, is granted.

In this case, the petitioners are raising a grievance that wrongly the authority has chosen the Medical School, Bairamsari, to be upgraded as High School in place of Middle School, Dehuni, which is situated at the middle of the Gram Panchayat.

The petitioner no.4, who has sworn the affidavit has mentioned the name of his village as Dehuni. The basic premise of the grievance is that the petitioners want that Middle School, Dehuni, should be upgraded at the level of High School, but as per the petitioners, the Middle School, Bairamsari, has been now notified to be upgraded at the level of High School. The grievance has been made that infrastructure wise the Middle School, Dehuni, has better place and location of the village connected by pitch road from three sides. It has further been urged that sufficient number of rooms are available in the Middle School, Dehuni, having electric connection including sufficient number of students, everything was moving in favour of the Middle School, Dehuni, to be upgraded as High School as



Aam Sabha and Executive Committee, Gram Panchayat, Golakhapur, in presence of Block Development Officer, Ghosi, took positive decision in favour of Middle School, Dehuni, but suddenly the Administration has changed its opinion and took decision in favour of Middle School, Bairamsari.

The selection of location of a School or Police Station or Hospital or declaration of a particular School for upgradation, completely lies within the domain of the Executive, selection of site are based on consideration of different elements having different administrative considerations. This Court in exercise of power under judicial review or in the Public Interest Litigation should not interfere with the Executive decision as they are the best persons to choose the site where the School or any Governmental Institution will be located.

In the present case, it appears that the decision has been taken by the Administration to declare the Middle School, Bairamsari as High School. Except the grievance raised by the petitioners there is no material to show that the action of the Administration is in any manner suffers from any illegality and this decision has been taken on consideration of several aspects of the matter, in such view, *mandamus* cannot be issued



in such matters as has been held by this Court in C.W.J.C. No. 8344 of 2014 (Kedar Singh vs. The State of Bihar and Ors.), C.W.J.C. No.15789 of 2014 (Bhaiya Lal Prasad and Anr. vs. The State of Bihar and Ors.) and in the case of *the Union of India and Ors. vs. S.L. Abbas* reported in *1993 (4) SCC 357* and *J.R. Raghupathy etc. vs. State of A.P. and Ors.* reported in *1988 S.C. 1681*.

However, the petitioners are at liberty to make a representation before the Three Men Committee, well quipped with the situation for redressal of their grievance, which will be obliged to examine the claim of the petitioners and take decision in accordance with law.

With the aforesaid observations and directions, this writ petition is disposed of.

**(Shivaji Pandey, J)**

**(Partha Sarthy, J)**

pawan/-

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