

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**Writ Petition (PIL) No. 39 of 2019****Order reserved on 05.02.2021****Order delivered on 15.03.2021**

- Balbir Singh Paikra, aged about 49 years, S/o Ghanshyam Singh Paikra, R/o Village Jujgu, P.S. Bagicha, Distt. Jashpur (C.G.)

-----Petitioner**VERSUS**

- State of Chhattisgarh, Through the Secretary, Department of School Education, Mantralaya Bhawan, Atal Nagar, New Raipur.
- The Additional Secretary, School Education Department, Mahanadi Bhawan, Atal Nagar, New Raipur (C.G.)
- The Director, Directorate of Public Education, Indrawati Bhawan, Atal Nagar, New Raipur (C.G.)
- The Collector, Jashpur, District Jashpur (C.G.)
- Jila Panchayat, Jashpur, through the Chief Executive Officer, Jila Panchayat, Jashpur, Distt. Jashpur (C.G.)
- District Education Officer, Jashpur, Distt. Jashpur (C.G.)

-----Respondents

For Petitioner	: Mr. Ravindra Agrawal & Mr. J.K. Saxena, Advocate.
For Respondents/State	: Mr. Supeep Agrawal, Deputy Advocate General.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****C.A.V. Order****Per Parth Prateem Sahu, J.**

- The petition has been filed against the order dated 8.3.2019 (Annexure P-1) amending the earlier order dated 9.8.2019 (Annexure P-2) whereby the State Government had identified the Schools running in the different blocks of the State including Schools running at Manora and Bageecha Blocks of District Jashpur. Earlier, 80 Schools of Bagicha Block of District Jashpur were identified for additional construction, repairing and renovation of School Buildings alongwith other schools of different blocks of District Jashpur. After the new Assembly Election, the State Government has issued amended notification on 8.3.2019

whereby 59 Schools of Bagicha Block have been withdrawn and schools of Manora Block has been increased under the said work. This made the petitioner to approach this Court with following reliefs :-

“10.1 The Hon'ble Court may kindly be pleased to issue appropriate writ/ writs, direction/directions, order/orders and to quash/ set aside the impugned order dated 08-03-2019 (Annexure P-1) with respect to cancellation of sanctioned work of Bagicha Block and directed the Respondents to carry out the sanctioned work of the Schools of Bagicha Block as per the sanction order dated 09-08-2018 (Annexure P-2).

10.2 The Hon'ble Court may kindly further be pleased to call for the entire records pertains to the instant case.

10.3 Any other relief, which the Hon'ble Court deems fit looking to the facts and circumstances of the case, may also be granted to the petitioner.”

2. Mr. Ravindra Agrawal, learned counsel for the Petitioner submits that as per order dated 9.8.2018 (Annexure P-2), the State Government had sanctioned a total sum of Rs.10674.40 Crores for repairing, renovation, construction of additional rooms and Verandah of the Schools identified and enlisted in the Order Annexure P-2 at different districts of the State. He further submits that 80 Schools have been identified for Bagicha block of District Jashpur for different purposes i.e. constructions, levelling, renovation & repairing work. After the Assembly elections, which took place in the end of 2018 and formation of new Government, suddenly, the State Government has issued the amended order vide Order dated 8.3.2019 (Annexure P-2). The Respondents-State without any reason, only on account of political interference of the local MLA, has withdrawn 59 schools identified by the earlier Government under the Scheme Annexure P-2 and have increased the Schools of Monaro Block of District Jashpur. This act has been done

without doing any exercise or inspections of the Schools to evaluate the urgency and necessity. During the regime of earlier Government, based on the urgency and necessity, the Competent Authority has prepared the list and sent the same to the State Government, which was approved. Hence, there was no reason for amending the order passed by the Government for the Schools already identified for construction, repairing and renovation etc. He further submits that the Order dated 8.3.2019 (Annexure P-1) has been passed only due to interference made by Local MLA, who had made all his efforts to reduce the Schools of the Bageecha Block of District Jashpur from the list and to bring in the other schools of Manora Block of District Jashpur in the list of identified schools for aforementioned work. He also submits that as per information of the Petitioner, brother of local MLA is a Contractor and for his benefit only, he (Local MLA) wrote a letter to the State Government on 11.02.2019 for amending the list of the Schools. His contention is that once after completing all the formalities, the Schools were identified for the purposes of the nature of work as mentioned in the order dated 9.8.2018 (Annexure P-2), then unless and until by visiting and inspecting the Schools again and report to this effect is brought to the knowledge of the authorities that other Schools require more importance and priority than the enlisted Schools, the amendment could not be made. Issuance of amended list (Annexure P-1) has been prepared only with a political motive. He also submits that the Order dated 8.3.2019 (Annexure P-1) be quashed directing Respondents Authorities to sanction the work of the Schools of Bageecha Block of District Jashpur as per Order dated 9.8.2018 (Annexure P-2).

3. Shri Sudeep Agrawal, learned Deputy Advocate General for the State/Respondents submits that idea and understanding of the Petitioner is not correct. In the previous list dated 9.8.2018 (Annexure P-2), there was huge difference in number of identification of the Schools in blocks. In District Jashpur, 80 Schools of Bageecha Block were identified *whereas* only seven schools of Monoro Block were identified, hence, only to rationalize the fund allocation for the entire district, the amendment order was issued and now 59 Schools of Bageecha Block are delisted. 43 schools of Manora Block and 16 Schools of Jashpur Block are identified and added in the list Annexure P-1. The action taken by the respondents-Authorities is based on the policy decision taking into consideration the priorities of the State, there is no arbitrariness in the action of the Respondents-State but only to harmonize the work, the amended order has been issued, which is a prerogative of the Executives. He further submits that the re-allocation of work has been done only to facilitate the works of the other blocks within the limited budget sanctioned for the aforesaid purpose. Perusal of the orders dated 8.3.2019 & 09.08.2018 vide Annexures P-1 & P-2, respectively would show that the budget allocated for the said work was for the financial year 2018-2019, which has already come to an end and if for any reason, the budget sanctioned is not utilized, then with the passage of time, the said amount would lapse. Hence, the petitioner is not entitled for the relief as sought for by him under Clause 10.1 of the writ petition. He submits that by lapse of time, the petition has become infructuous.

4. We have heard learned counsel for the respective parties.

5. True it is that the identifying the Schools and allocating the funds for the work as mentioned under Annexures P-1 & P-2 is for the State Government and the Executives, there is no dispute to the said submission made by learned Counsel for the Respondents/State but in the case at hand, the Government machinery has identified the Schools of Bageecha Block of District Jashpur alongwith other blocks, might be after doing some exercise. The schools, which are being enlisted as Annexures P-1 & P-2, are mostly Primary and Middle Schools.

6. The Respondents-State, in their reply, have not placed any material before this Court that the identification of the Schools mentioned in Annexure P-2 is erroneous, do not fulfill the requisite criteria or able to prove that the Schools subsequently identified at Monaro Block of Jashpur District require priority over the Schools, which have been withdrawn from enlisted schools of Bageecha Block of District Jashpur. Definitely, even if any School Building is identified for the nature of work as mentioned in Annexures P-1 & P-2, the State Authority or the Government Machinery is having ample power to amend the list of the Schools and re-allocate the works, but is to be done only for some justifiable reasons which are missing in this case.

7. For the foregoing reasons, we are not satisfied with the submissions made by learned Counsel for the State that the change has been made only to harmonize the work at Schools of Bageecha and Manora Blocks of District Jashpur.

8. The identification of the schools for renovation/ repairing or additional construction shall be done based on the priority, looking to their condition and necessity, after physical verification of the school

buildings, keeping in mind the safety and security of the school going children.

9. Taking into consideration, the submission made by learned counsel for the respondent-State that the funds allocated were for the work of the financial year 2018-19, which has already come to an end, we are not inclined to grant relief as sought for by the petitioner in the present writ petition. However, since the respondents could not able to point out the dire necessity to amend the list of the schools which was finalized and ordered by the State Government for the repairing/ renovation of additional construction *vide* order dated 09.08.2018, we find it appropriate to direct the Respondent-State to pass appropriate orders for the reconstruction/ renovation or additional construction in the schools premises of block Bageecha which were identified and enlisted in order dated 09.08.2018 Annexure P-2, within a period of 6 weeks from the date of receipt of the copy of the order passed by this Court.

10. With the aforesaid observations, the writ petition (PIL) stands disposed of.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge