

HIGH COURT OF CHHATTISGARH, BILASPUR**WP(PIL) No. 123 of 2021**

Mohan Lal Patel S/o Shri Gangaram Patel Aged About 26 Years R/o
Ward No. 07, Gram Panchayat Charra, Post And Block Kurud,
District Dhamtari

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Higher Education, Mahandi Bhawan, Atal Nagar, Mantralaya, District Raipur, Chhattisgarh.
2. The Secretary Department Of Revenue, Mahanadi Bhawan, Atal Nagar, Mantralaya, District Raipur, Chhattisgarh.
3. Upper Chief Secretary And Agriculture Production Commissioner to State Of Chhattisgarh Agriculture And Bio Technology Department, Mahanadi Bhawan, Atal Nagar, Mantralaya, District Raipur, Chhattisgarh
4. The Registrar, Indira Gandhi Agriculture College, Krishak Nagar, District Raipur, Chhattisgarh.
5. The Collector Dhamtari, District Dhamtari, Chhattisgarh.
6. The District Forest Officer, Dhamtari, District Dhamtari, Chhattisgarh.
7. The Principal Government Agriculture College, Central Charra, Kurud, Tahsil Kurud, District Dhamtari, Chhattisgarh.

---- Respondents

For petitioner - Shri Praveen Soni and Mrs. Shital Soni, Advocates.
For State – Shri H.S. Ahluwalia, Dy.A.G.

Hon'ble Shri Justice Goutam Bhaduri

Hon'ble Shri Justice N.K. Chandravanshi

Order on Board

Per Goutam Bhaduri, J.

20/12/2021

Heard.

1. The petitioner who claims to be a public spirited person has preferred this public interest litigation pro bono publico primarily on the ground that Government Primary School, Government Middle School and Government Higher Secondary School are situated at village Charra and

the additional lands were allotted to them 40 years back bearing khasra No.282/4, 282/5 and 1069/3. In those part and parcel of the land the school used to do the agriculture and thereby used to earn. It is stated that the said earning was used in the development of the school. He would submit that all of a sudden the respondent/State has occupied the part of the land without any allotment to them and started a construction and access of the school to such land and the general public has been stopped. He would submit that on enquiry it revealed that agriculture college is being constructed over the land. It is further submitted that the land which is under use is bearing khasra No.282/4, 282/5 and 1069/3 and in respect of these land no express allotment was made by the State. He would submit that the petitioner is resident of village Charra, Block Kurud and because of such action the school would be deprived to have their future income as was being done earlier. Further it is contended that the account sheet have been filed to show that the revenue generated from the income over the said agricultural land was being used for the development of the school, therefore the respondent be restrained to raise any construction over the land on which the alleged agriculture college is constructed. He would further submit that when initially this writ petition was filed the State took time to file their reply and taking advantage of this, the construction are being raised over the subject land. Therefore, the respondent be restrained to raise any superstructure over the land.

2. Per contra, learned State counsel opposes the argument and would submit that the land has been allotted by the Collector in exercise of power under Section 237(3) of the Chhattisgarh Land Revenue Code for construction of agriculture college at village Charra. It is submitted that the government land on which the construction is raised was earlier allotted to forest which was bearing khasra No.282/4, 282/5 & 1069/3 of total area

17.39 hectare and total 30.06 hectare including the grass land (community land) was allotted for construction of college by changing the nature. He would further submit that the Government Primary School Charra, Government New Primary School Charra and Government Middle School are situated over land bearing khasra No.1510 & 1064 at village Charra which is approximately 1 to 1.5 km away from the land allotted for construction of building. He would further submit that the plea raised by the petitioner that the revenue are being generated would be completely frivolous for the reason that it is government school for which the salary are being paid to the teachers from the government fund and the petitioner therefore cannot espouse the cause. He would further submit that it was never admitted at any point of time.

3. Heard learned counsel for the parties.

4. The petitioner Mohan Lal Patel claims to be a public spirited person and spear heading the cause of a Government Primary School, Government Middle School and Government Higher Secondary School. Though it is contended that the said school were allotted the khasra No.282/4, 282/5 and 1069/3 at village Charra for agricultural purpose, there is no document on record to show that any such allotment at any point of time was made to the school. Learned counsel though has pointed out that the pond has been covered but there is nothing on record to substantiate the same except the oral statement. The documents which are placed on record obtained under the RTI purports that Rs.35,000/-, Rs.16,000/- and Rs.20,000/- was earned by agriculture which is certified by the Head Master thereby the earning of Rs.71,000/- was generated for the last revenue year. The account is also filed to show the earning and expenditure with a earning column and expenditure column. We failed to understand under what capacity the government school was having its

earning by the extra source to generate the revenue of its own and in turn spend it according to their free wish and will.

5. The petitioner want to espouse the cause of the government school that their earning would be stalled but what provisions and rules allows such earning to a government school is unknown. No one from the government school made any representation or any application to the State instead it appears that handed over the baton to this petitioner. When the government fund are being utilized then there are certain norms and procedure are required to be followed. In the instant case, it can't be left open to the free wish and will of a teacher/principal of a particular school to make earning by encroachment over the government land and spend it to their own accord. Even if there is certain earning from the out source, for the expenses and account there is no audit, therefore who has pocketed the money is unknown.

6. On the contrary, the State has filed its affidavit along with an order which is filed in the petition of 28/06/2018 it would show that the Collector, Dhamtari has allotted the land part of khasra No.282/1, 282/2 and 1069/2 for construction of agriculture college. The construction of agriculture college would be for the public purpose. The affidavit which is filed by the State would show that the exercise of power was made under Section 237(3) of the Chhattisgarh Land Revenue Code whereby such lands were allotted. Further the affidavit also purports that the khasra No.1510 & 1064 on which the government school situates is about 1 to 1.5 km away from the land allotted for construction of building.

7. In view of the above discussion, if the school was in occupation of certain land and were earning the revenue, in absence of any allotment letter no presumption can be drawn. It would be only a self certificate issued to the school itself and under what capacity the petitioner has filed

this PIL also makes it doubtful. Under the circumstances, taking into the facts of this case we are of the opinion that the petition so preferred in the name of the public cause is frivolous and is liable to be dismissed with a cost of Rs.2500/- to be payable to the State.

8. Accordingly, the petition is dismissed. The petitioner is directed to pay cost of Rs.2500/- to the State.

Sd/-

(Goutam Bhaduri)
Judge

Sd/-

(N.K. Chadravanshi)
Judge