

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.25811 of 2021-PIL

***Sri Kamal Lochan Jena and others* *Petitioners*
*Mr. Amit Pattanaik, Advocate***

-versus-

***State of Odisha and others* *Opposite Parties*
Mr. Nihar Kanta Praharaj,
Standing Counsel for School and Mass
*Education Department***

**CORAM:
JUSTICE SASHIKANTA MISHRA**

**ORDER
22.07.2022**

Order No.

4.

1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. A decision was taken by the government of Odisha to establish Adarsha Vidyalayas in all the blocks of the State including Basta block in the district of Balasore. Accordingly the school was to be established in Mouza-Patharajhada in a government land recorded under Khata No.217 appertaining to Plot No.505, measuring an area of Ac.8.30 dec. out of which, Ac.5.00 was earmarked for alienation in favour of School and Mass Education Department for construction of the said school. Subsequently, funds having been allotted, necessary work order was also issued by the Executive Engineer, Rural Works Division, Balasore on 08.03.2019 for Rs.3,14,73,589/- with instruction to complete the work within fifteen calendar months from the date of commencement i.e. 8.3.2019. It is also submitted that pursuant to the decision of the Government to establish Adarsha

Vidyalaya at Patrajhada, applications have been invited from the students from Class-6 onwards. In a joint enquiry conducted on the instruction of the Collector and District Magistrate, District Education Officer and Tahasildar, Basta, it was observed that the plot in question is of Kisam-Misri-Jungle in the Sabik record. Therefore, it was decided to shift the site to a nearby village, namely, Vellora. Parents of the students studying in the Adarsha Vidyalaya at Patrajhada including the present Petitioners obtained necessary particulars of the land in question from the Consolidation Office, Basta, as per which, the Kisam (nature) of the land was 'Misri-Jungle' in Sabik but in Hal it has been recorded as 'Patita'. The Petitioners have also obtained copy of the ROR by downloading it from the Bhulekh Portal of the Government which also shows that Kisam of the land is no longer 'Misri-Jungle' but 'Patita'. Therefore, challenging the decision to shift the Adarsha Vidyalaya from Patrajhada to village Vellora, the Petitioners have approached this Court in the present writ petition seeking the following relief:

“It is, therefore, humbly prayed that this Hon’ble Court may graciously be pleased to issue a writ in the nature of mandamus and/or any other writ directing the Opposite Parties to show cause as to why the impugned order dated 10.12.2020 vide Annexure-4 and all consequential decisions/orders shall not be set-aside and directions shall not be issued to continue/go-ahead with the construction of Adarsha Vidyalaya at Village Patrajhada as was decided earlier.

And may pass such other order(s)/direction(s), as this Hon’ble Court may think fit and proper;

And for this act of kindness, the Petitioners shall remain duty bound ever pray.”

3. After hearing learned counsel for the Petitioners and learned

counsel for the State, it is observed that there appears to be some discrepancy in the mentioning of the kism of the land in the joint enquiry report which prompted the decision to shift Adarsha Vidyalaya to village Vellora. The kism of the land is something that can be easily ascertained from the revenue records. Further, the Collector, Balasore, Opp. Party No.3 being the appropriate authority can take a decision in this regard basing on such revenue records.

Therefore, without entering into the merits of the contentions raised by the parties, it is deemed proper to dispose of the writ petition granting liberty to the Petitioners to approach the Collector, Balasore, by submitting a representation highlighting their grievance along with the supporting documents, if any, within a period of two weeks. In the event such representation is submitted, the Collector, Balasore shall do well to dispose of the same within two weeks thereafter after verification of records and by providing opportunity of hearing to the Petitioners. Till disposal of the representation of the Petitioners, status quo as on date with regard to Adarsha Vidyalaya of Patrajhada shall be maintained.

4. Writ petition stands disposed of with the above liberty.
5. Issue urgent certified copy as per rules.

(Sashikanta Mishra)
Judge