

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11690 of 2024

Ashwini Kumar S/o Ramanand Roy, R/o village- Sirakatta, Sikat, Katihar,
Bihar - 854115.

... .. Petitioner/s

Versus

1. The Chief Seretary, Government of Bihar Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Director of Bihar Secondary Education, Bihar, Patna.
4. The Director, Primary Education Department, Government of Bihar, Patna.
5. Regional Education Deputy Director, Purnia.
6. District Magistrate-cum-Collector, Katihar.
7. The District Education Officer, Katihar.
8. The District Programme Officer, Secondary Education Section, Katihar.
9. The District Programs Officer, Accounts and Planning Section, Katihar.
10. Block Education Officer, Barari, (Katihar).
11. Block Education Officer, Kursela, (Katihar).
12. Block Education Officer, Samely, (Katihar).
13. Block Education Officer, Kordha, Katihar.
14. Block Education Officer, Falka, (Katihar).
15. Block Education Officer, Katihar.
16. Block Education Officer, Mansahi Katihar.
17. Block Education Officer, Amdabad, (Katihar).
18. Block Education Officer, Pranpur, (Katihar).
19. Block Education Officer, Barsoi, (Katihar).
20. Block Education Officer, Azamnagar, (Katihar).
21. Block Education Officer, Manihari, (Katihar).
22. Block Education Officer, Kadwa, (Katihar).
23. Block Education Officer, Balrampur, (Katihar).
24. Headmaster, Sri J.N.C High School, Bareta, Semapur.
25. Headmaster Plus 2 Rajkiyakrit Jageshwar Uchch Madhymaik Vidyalayala, Guru Bazar, Barari, (Katihar).
26. Headmaster, Gurunaanak Kany Uchch Maadhyamik Vidyaalay, Guru Bazar, Barari, (Katihar).
27. Headmaster, Plus 2 Ayodhya Prasad Uchch Maadhyamik Vidyaalay, Ayodhyaganj, Kursela, (Katihar).
28. Headmaster Samptraj Kanya Uchch Maadhyamik Vidyaalay, Kursela, (Katihar).



- 29. Headmaster, Plus 2 Dhrampur Gandhi Uchch Maadhyamik Vidyaalay, Krishna Nagar, Narhaiya, Sameli, (Katihar).
- 30. Headmaster Uma Devi Mishra Bailka Uchch Maadhyamik Vidyaalay, (Katihar).
- 31. Headmaster, Harishankar Nayak Uchchtra Maadhyamik Plus 2 Vidyaalay, Mirchaibari (Katihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Rai, Advocate
For the Respondent/s : Mr. P.K. Shahi, Advocate General

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-11-2024

The present writ petition filed seeks a direction to the Additional Chief Secretary, Education Department, Govt. of Bihar to make necessary enquiry regarding the necessity of basic infrastructure of Senior Secondary Schools of the State. The enquiry is sought, specifically on the allegation that the development fund collected from the students of the concerned particular schools is not utilized for those schools and is diverted to primary and middle schools. Annexure-1, letter of the Additional Chief Secretary of Education Department is sought to be modified to that extent.

2. A counter affidavit has been filed by the 7th respondent, District Education Officer, Katihar; with respect to which district the petitioner has raised the specific allegation. It



is first contended that the petitioner has filed the above Public Interest Litigation based only on paper cuttings without any real substantiation of the allegation and is in clear violation of the stated principles in **Dattaraj Nathuji Thaware v. State of Maharashtra & Ors. (2005) 1 SCC 590**, **State of Uttranchal v. Balwant Singh Chaufal & Ors. (2010) 3 SCC 402** and **Jaipur Sahar Hindu Vikas Samiti v. State of Rajasthan (2014) 5 SCC 530**.

3. On the issue projected, it is stated that the school development fund of Senior Secondary Schools are first used for basic infrastructure of the concerned schools itself. The diversion of school development funds as is alleged by the petitioner is only to the feeder areas, done by the Senior Secondary School, which is also as per the guidelines issued by the Additional Chief Secretary, Education Department by communication dated 11.10.2023 and 07.11.2023, produced along with the writ petition as Annexure-1 series. It is categorically stated that there is no violation of the guidelines in memo no. 7630 dated 18.09.2019 produced as Annexure-2 series and the further guidelines of the Director, Primary Education dated 25.11.2023 produced as Annexure-2 series.

4. It is admitted that the school development fund is



generated by the Senior Secondary Schools through collection from students by way of fee and utilized and maintained by them for development of required basic infrastructure through the management committees.

5. As a matter of policy, only the excess funds are utilized for developing the infrastructure of primary and middle schools which also promotes the education and literacy within the State; specifically in the primary and middle schools; which are the source (feeder schools) from which admissions are carried out in the Senior Secondary Schools.

6. It is out of these excess funds that Annexure-8 directed the schools to provide bench and desk to fifteen number of schools in the feeder area at an estimated cost of Rs. 40 lakhs which does not in any way hamper the development of infrastructure in the Senior Secondary Schools.

7. It is specifically stated that directions were issued to various Senior Secondary Schools to provide basic infrastructure to primary and middle schools which is also the need of the hour as has been argued before us by the learned Advocate General.

8. The learned Advocate General also emphasized the Right of Children to Free and Compulsory Education Act, 2009,



2009, which has highlighted the significance of primary education; and there is a mandate for free and compulsory education at the primary level. The Deputy Director, Secondary Education has also filed an affidavit dated 18.10.2024 on the same lines.

9. Annexure-1 issued by the Additional Chief Secretary, Department of Education speaks of about Rs. 1100/- crores lying in the student fund/development funds in the secondary schools of the State, which has to be spent for the betterment of the secondary schools themselves. Simultaneously, it was opined that attention should be paid to the primary/middle schools in the feeder areas of the secondary schools and work should be done in these schools also from the development funds of the secondary schools. It was observed that the Rs. 1100/- crores remaining in the development fund of the secondary schools should be first utilized for renovation, repair, toilets, furniture, lab etc. of the secondary schools themselves. After such utilization, there was an amount of Rs. 1090/- crores lying in the student fund or development fund. It is only on finding that the secondary schools have basic infrastructure, also referring to the National Education Policy, 2020, it was directed that the schools should be viewed as a cluster, at the center of



which is the secondary school and the primary and middle schools around it are its organs. Specific reference was made to Clause 7.6 of the National Education Policy, 2020, which spoke of the establishment of a grouping structure called the school complex, consisting of one secondary school together with all other schools offering lower grades in its neighborhood including anganwadis, in the radius of five to ten kms. The policy strongly endorses the idea of the school complex or cluster, wherever possible.

10. It was to implement such measure that it was directed that inspiration should be drawn from the school cluster concept to make functional toilets and arrange sufficient furniture in the primary/middle schools of the feeder area of secondary schools.

11. Annexure-1/1 issued by the Director, Secondary Education also drew inspiration from the opinion of the Additional Chief Secretary and directed identification of primary/middle schools needing furniture and toilets for which purpose the development funds had to be utilized.

12. Annexure-1/2 guidelines issued for Principals or Principals In-charge of all schools also provided for expenditure of development fund in the school cluster concept.



13. It is very evident that there is nothing stated by the petitioner as to lack of infrastructure in any secondary school particularly Senior Secondary School from which the funds have been diverted. The policy decision to provide sufficient infrastructure for the primary/middle schools also coming within the feeder areas of the Senior Secondary Schools cannot be faulted.

14. We find absolutely no reason to entertain the writ petition and reject the same.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	02.12.2024.
Transmission Date	

