

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11284 of 2025

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Babita Devi Wife of Abhay Karan, Resident of Village- Baduaa, P.O.- Ram Nagar, P.S.- Raghunathpur, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The District Magistrate, District- Siwan.
4. The District Education Officer, District- Siwan.
5. The Block Education Officer, Block- Raghunathpur District- Siwan.
6. The Circle Officer, Block- Raghunathpur, District- Siwan.
7. Vishwanath Singh, Son of Kaushal Kishore Singh, Resident of Village- Baduaa (Narsingh Dumri), P.O.- Ram Nagar, P.S.- Raghunathpur, District- Siwan.
8. Maheshwar Singh, Son of Kaushal Kishore Singh, Resident of Village- Baduaa (Narsingh Dumri), P.O.- Ram Nagar, P.S.- Raghunathpur, District- Siwan.
9. Singheshwar Singh, Son of Kaushal Kishore Singh, Resident of Village- Baduaa (Narsingh Dumri), P.O.- Ram Nagar, P.S.- Raghunathpur, District- Siwan.
10. Ranjan Singh, Son of Kaushal Kishore Singh, Resident of Village- Baduaa (Narsingh Dumri), P.O.- Ram Nagar, P.S.- Raghunathpur, District- Siwan.
11. Rocky Singh @ Golu Singh, S/o Late Kaushal Kishore Singh, Resident of Village- Baduaa (Narsingh Dumri), P.O.- Ram Nagar, P.S.- Raghunathpur, District- Siwan.
12. Sanjay Singh @ Mantu Singh, S/o- Late Maheshwar Singh, Resident of Village- Baduaa (Narsingh Dumri), P.O.- Ram Nagar, P.S.- Raghunathpur, District- Siwan.
13. Vinod Kumar Singh, S/o- Late Singheshwar Singh, Resident of Village- Baduaa (Narsingh Dumri), P.O.- Ram Nagar, P.S.- Raghunathpur, District- Siwan.
14. Brajesh Singh, S/o Late Singheshwar Singh, Resident of Village- Baduaa (Narsingh Dumri), P.O.- Ram Nagar, P.S.- Raghunathpur, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjeet Kumar, Ms.Lakshmi Kumari, Mr.Kanishk Kaustubh & Mr.Ranjish Prakash, Advocates
For the Respondent/s	:	Mr.Sarvesh Kumar Singh, AAG 13



CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 18-07-2025

In the instant writ petition, petitioner has prayed for
the following relief (s) :-

“I. For issuance of direction to the Circle Officer, Raghunathpur, District Siwan to not to allow the mutation of the land to the private respondents relating to the land appertaining to Khata No. 44, Plot No. 216 & 217 situated at village Parsuram Dumri, upon which one government school is situated and the land originally belongs to Ram Singhashan Lal who has never executed any deed in favour of the private respondents.

II. For issuance of direction to the Respondents Authorities to restrain the private respondents from creating any obstruction in construction of the Building/ Room in Rajkiya Primary School, Baduaa as the private respondents have forcibly restrained the construction.

III. For issuance of the direction to the respondent's authorities to remove the encroachment created by the private respondents upon the



aforementioned land as the land originally belongs to Ram Sighashan Lal, who orally gifted the entire land to the Government and upon which one primary school is situated and remaining lands are used for the school purposes.

IV. For any other relief/reliefs for which the petitioner may be deemed entitled to.”

2. Learned counsel for the petitioner submits that the land appertaining to Khata No. 44, Plot No. 216, 217 situated at Village- Parsurampur, Dumri, Circle Office- Raghunathpur, Siwan beongs to the Khatiyani raiyat Ram Singhshan Lal, as is evident from the extract of Khatiyani, as contained in Annexure-P/1. It is further submitted that the Khatiyani raiyat orally gifted the land in question to the Government of Bihar and on the said land the Primary School, Baduaa was constructed in the year 1953. Presently the school has altogether 7 rooms and one other school namely New Primary School, Basantpur has also been tagged alongwith this school. It is further submitted that the aforesaid school is also reflected on the website of the Ministry of Education, Government of India, as is evident from the School Report Card obtained from the website of the Ministry of Education, Government of India, as contained in Annexure-P/3.



3. At the outset, learned counsel for the State has raised the issue of maintainability of the present writ petition. Learned counsel submits that the petitioner has no *locus standi* to maintain the present writ petition as none of his legal rights has been infringed, and hence, on this ground alone the present writ petition is fit to be dismissed.

4. Heard the submissions advanced on behalf of the parties and perused the record. A preliminary objection has been raised by the State with regard to maintainability of the writ petition on the ground that no personal injury has been caused to the writ petitioner, and as such, petitioner has no locus to file the present writ petition. It is a well settled law that a person, who raises a grievance, has to show as to how he/she has suffered legal injury and in absence thereof, a stranger having no right whatsoever cannot be permitted to invoke the writ jurisdiction of the High Court under Article 226 of the Constitution of India. A legal right means an entitlement which arises out of statute meaning thereby that it can be said to be an advantage or a benefit conferred upon a person by the rule of law. Thus, existence of legal right of a person complaining infringement of his rights is the foundation for exercise of writ jurisdiction by the High Court under Article 226 of the Constitution of India. It



is also a well-settled law that a person shall have no *locus standi* to file a writ petition if he/she is not personally affected by the impugned order or his fundamental rights have neither been directly or substantially embodied nor is there any eminent danger of such rights being embodied. Thus, the relief under Article 226 of the Constitution of India is based on the existence of a right in favor of person invoking the jurisdiction and the exception to the general rule is only in cases where the writ applied for is a writ of habeas *corpus* or *quo warranto* or filed in public interest, which is not the case herein.

5. In this context, the judgments rendered by the Hon'ble Supreme Court in the cases of *Ayaaubkhan @ Noorkhan Pathan vs. State of Maharashtra & Others*, reported in (2013) 4 SCC 465 and *Vinoy Kumar vs. The State of U.P. & Others*, reported in (2001) 4 SCC 734 are quite relevant on the issue.

6. Paragraphs 9 to 17 of the the judgment in the case of *Ayaaubkhan @ Noorkhan Pathan (Supra)* is quoted hereinbelow for ready reference :-

“9. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the



category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order, etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can, of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that the relief prayed for must be one to enforce a legal right. In fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and



approaches the Court for relief as regards the same. [Vide State of Orissa v. Madan Gopal Rungta [1951 SCC 1024], Saghir Ahmad v. State of U.P. [AIR 1954 SC 728], Calcutta Gas Co. (Proprietary) Ltd. v. State of W.B. [AIR 1962 SC 1044], Rajendra Singh v. State of M.P. [(1996) 5 SCC 460] and Tamilnad Mercantile Bank Shareholders Welfare Assn. (2) v. S.C. Sekar [(2009) 2 SCC 784].

10. A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one whose right or interest has been adversely affected or jeopardised. (Vide Shanti Kumar R. Canji v. Home Insurance Co. of New York [(1974) 2 SCC 387] and State of Rajasthan v. Union of India [(1977) 3 SCC 592].

11. In Anand Sharadchandra Oka v. University of Mumbai [(2008) 5 SCC 217], a similar view was taken by this Court, observing that, if a person claiming relief is not eligible as per requirement, then he cannot be said to be a person aggrieved



regarding the election or the selection of other persons.

12. In A. Subash Babu v. State of A.P. [(2011) 7 SCC 616], this Court held: (SCC pp. 628-29, para 25)

"25. ... The expression 'aggrieved person' denotes an elastic and an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which the contravention is alleged, the specific circumstances of the case, the nature and extent of the complainant's interest and the nature and the extent of the prejudice or injury suffered by the complainant."

13. This Court, even as regards the filing of a habeas corpus petition, has explained that the expression "next friend" means a person who is not a total stranger. Such a petition cannot be filed by one who is a complete stranger to the person who is in alleged illegal custody. [Vide Charanjit Lal Chowdhury v. Union of India [1950 SCC 833 : AIR 1951 SC 41], Sunil Batra (2) v. Delhi Admn. [(1980) 3 SCC 488], Nilima Priyadarshini v. State of Bihar [1987 Supp SCC 732], Simranjit Singh Mann v. Union of India [(1992) 4 SCC 653], Karamjeet



Singh v. Union of India [(1992) 4 SCC 666] and Kishore Samrite v. State of U.P. [(2013) 2 SCC 398].

14. This Court has consistently cautioned the courts against entertaining public interest litigation filed by unscrupulous persons, as such meddlers do not hesitate to abuse the process of court. The right of effective access to justice, which has emerged with the new social rights regime, must be used to serve basic human rights, which purport to guarantee legal rights and, therefore, a workable remedy within the framework of the judicial system must be provided. Whenever any public interest is invoked, the court must examine the case to ensure that there is in fact, genuine public interest involved. The court must maintain strict vigilance to ensure that there is no abuse of the process of court and that, "ordinarily meddlesome bystanders are not granted a visa". Many societal pollutants create new problems of non-redressed grievances, and the court should make an earnest endeavour to take up those cases, where the subjective purpose of the lis justifies the need for it. (Vide P.S.R. Sadhanantham v. Arunachalam [(1980) 3 SCC 141], Dalip Singh v. State of U.P. [(2010) 2 SCC 114], State of Uttaranchal v.



Balwant Singh Chaufal [(2010) 3 SCC 402] & Amar Singh v. Union of India [(2011) 7 SCC 69].

15. Even as regards the filing of a public interest litigation, this Court has consistently held that such a course of action is not permissible so far as service matters are concerned. (Vide Duryodhan Sahu v. Jitendra Kumar Mishra [(1998) 7 SCC 273], Dattaraj Nathuji Thaware v. State of Maharashtra [(2005) 1 SCC 590] and Neetu v. State of Punjab [(2007) 10 SCC 614].

16. In Ghulam Qadir v. Special Tribunal [(2002) 1 SCC 33], this Court considered a similar issue and observed as under: (SCC p. 54, para 38) "38. There is no dispute regarding the legal proposition that the rights under Article 226 of the Constitution of India can be enforced only by an aggrieved person except in the case where the writ prayed for is for habeas corpus or quo warranto. Another exception in the general rule is the filing of a writ petition in public interest. The existence of the legal right of the petitioner which is alleged to have been violated is the foundation for invoking the jurisdiction of the High Court under the aforesaid article. The orthodox rule of interpretation regarding the locus



standi of a person to reach the court has undergone a sea change with the development of constitutional law in our country and the constitutional courts have been adopting a liberal approach in dealing with the cases or dislodging the claim of a litigant merely on hypertechnical grounds. ... In other words, if the person is found to be not merely a stranger having no right whatsoever to any post or property, he cannot be non-suited on the ground of his not having the locus standi."

17. In view of the above, the law on the said point can be summarised to the effect that a person who raises a grievance, must show how he has suffered legal injury. Generally, a stranger having no right whatsoever to any post or property, cannot be permitted to intervene in the affairs of others."

7. Paragraph 2 of the judgment in the case of **Vinoy Kumar (supra)** is quoted herein below:-

"2. Generally speaking, a person shall have no locus standi to file a writ petition if he is not personally affected by the impugned order or his fundamental rights have neither been directly or substantially invaded nor is there any imminent danger of such rights being invaded or his acquired interests have



been violated ignoring the applicable rules. The relief under Article 226 of the Constitution is based on the existence of a right in favour of the person invoking the jurisdiction. The exception to the general rule is only in cases where the writ applied for is a writ of habeas corpus or quo warranto or filed in public interest. It is a matter of prudence, that the court confines the exercise of writ jurisdiction to cases where legal wrong or legal injuries are caused to a particular person or his fundamental rights are violated, and not to entertain cases of individual wrong or injury at the instance of third party where there is an effective legal aid organisation which can take care of such cases. Even in cases filed in public interest, the court can exercise the writ jurisdiction at the instance of a third party only when it is shown that the legal wrong or legal injury or illegal burden is threatened and such person or determined class of persons is, by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief.”

8. Having regard to the facts and circumstances of the case, the discussions made above and the law laid down by the Hon’ble Apex Court in the cases of ***Ayaaubkhan Noorkhan***



Pathan (*supra*) and ***Vinoy Kumar*** (*supra*), the present writ petition is not maintainable and is fit to be dismissed.

9. At this stage, learned counsel for the State submits that petitioner is the Mukhiya of the concerned Gram Panchayat and she has raised the grievance with regard to functioning of a Government School before the District Magistrate, Siwan by way of letter dated 24.03.2025, as contained in Annexure-P/6. He submits that in case petitioner files a fresh representation before the District Magistrate, Siwan raising the grievances, as has been raised in the present writ petition, the same shall be looked into.

10. In the light of the submissions advanced by learned counsel for the State and considering that the issue is related to a Government School and the District Magistrate has not taken any action on the letter/representation submitted by the petitioner, who is Mukhiya of the concerned Gram Panchayat, the present writ petition is disposed of with liberty to the petitioner to represent her grievance afresh before the District Magistrate, Siwan within a period of five weeks from the date of receipt of a copy of this order. If such representation is filed within the stipulated time, the District Magistrate, Siwan shall consider the grievance of the petitioner and pass



appropriate order in accordance with law after giving due opportunity of hearing to the parties concerned, without being prejudiced by the order passed by this Court.

(Alok Kumar Pandey, J)

mcverma/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	24.07.2025
Transmission Date	

