
(2018) 09 UK CK 0021

In the Uttarakhand High Court

Case No : Writ Petition (PIL) No. 155 of 2016

Noor Alam & another

APPELLANT

Vs

State of Uttarakhand & others

RESPONDENT

Date of Decision : 05-09-2018

Acts Referred:

Citation : (2018) 09 UK CK 0021

Hon'ble Judges : Rajiv Sharma, ACJ; Manoj Kumar Tiwari, J

Bench : Division Bench

Advocate : Aditya Pratap Singh, S.S. Chauhan, Kanti Ram Sharma

Final Decision : Allowed

Judgement

Rajiv Sharma, A.C.J.

1. Petitioner No. 1 is heading the School Management Committee of the Government Primary School (now also Junior High School) and is a

permanent resident of Village Rehmatpur, Tehsil Roorkee, District Haridwar. The Government school (Primary and Junior High School) in the Village

is catering to Class 1 to Class 8. The open area of the school has been used for construction of Anganbari Centre without seeking permission from the

statutory authorities. It has reduced the playing area for the children as well as the prayer ground. Some Village Education Committee, an extra-

Constitutional authority, has permitted the construction of the Anganbari Centre at the place, where the toilets were already in existence. Now, there

would be only two toilets.

2. The attention of the Court is drawn to an affidavit sworn by the Director, Elementary Education, Uttarakhand. It is specifically averred in paragraph

8 of the said affidavit that there are 591 students studying in the school.

According to the provisions of the Right of Children to Free and Compulsory Education Act, 2009 and the Uttarakhand Right of Children to Free and Compulsory Education Rules, 2011, the entire property, including the land of a particular school, is to be managed and used as per the consent of the School Management Committee. The existing school was using the open area for prayers and also as a playground for the children. The Director has categorically admitted that the open area has illegally been encroached upon by raising construction for Anganbari Centre. It is further stated that the open area was already small; but, it has further been decreased after the construction of the Anganbari Centre. The Principal as well as the School Management Committee, vide complaint dated 29.08.2016, reported the illegal demolition and construction in the property carried out by respondent No. 5.

3. It was the duty cast upon the respondents to ensure that no construction was raised on the playground / prayer ground as well as on the land on which the toilets were situated. We have also gone through the pictures placed on record. It would have been more congenial for the respondents to construct the building at any other place, instead of using the small open area used by the school.

4. Accordingly, the writ petition is allowed and respondent Nos. 1, 3 & 4 are directed to demolish the structure made by encroaching upon the school's land situated at Khasra No. 193 with Khata Khatauni No. 00266, Village Rehmatpur, P.O. Piran Kaliyar, Tehsil Roorkee, District Haridwar, within a period of four weeks from today.