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**(2008) 09 PAT CK 0031**  
**In the Patna High Court**  
**Case No : CWJC No. 9297 of 2008**

Syed Anis Haider

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 26-09-2008

**Acts Referred:**

Constitution of India, 1950 — Article 21

**Citation :** (2009) 2 PLJR 535

**Hon'ble Judges :** R.M. Lodha, C.J.; Kishore K. Mandal, J

**Bench :** Division Bench

**Advocate :** Farooque Ahmed Khan and Helal Ahmad, for the Appellant; Sunil Kumar Mandal and Arjun Prasad, for the Respondent

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## **Judgement**

1. This writ petition raises an issue of non-construction of Primary School building at Syed Tola Rasoolpur, although it was sanctioned in the month of May 2007. When this matter came up before us on 23rd July, 2008, to have comprehensive view of larger issue of Primary Schools being run without buildings, we directed the Director, Primary Education, Government of Bihar, to file an affidavit giving details of Primary Schools in the entire State of Bihar and further state on affidavit as to how many these schools are run from the Pacca buildings and also the details of teachers posted in such schools. In compliance thereof, an affidavit has been filed by Ashutosh, Director, Primary Education, Bihar, Patna. He has stated that, principally, the subject matter relates to State Project Director, Bihar Education Project and based on the report made available by the State Project Director, to him, the Director, Primary Education, Bihar, Patna, has, in his affidavit, stated that total number of Primary Schools in the State of Bihar are forty nine thousand six hundred (49,600). Thirty seven thousand four hundred seventy nine (37,479) schools are housed in Pacca building while about twelve thousand four hundred seventy five (12,475) schools have no building at all. He has further stated that out of twelve thousand four hundred seventy five schools, which have no building, six thousand three hundred ninety four (6,394) school buildings are under construction and six

hundred sixteen (616) school buildings have already been constructed. He has further submitted that by the year, 2009-2010, the entire complement of schools in the State of Bihar shall have Pacca buildings.

2. The Director, Primary Education, has also stated in his affidavit that seven lac eighty four thousand four hundred twenty seven (7,84,427) boys and seven lac seven thousand seven hundred forty four (7,07,744) girls are presently studying in the schools which have no building. In such schools which have no building, twelve thousand seven hundred thirty four (12,734) male teachers and eleven thousand two hundred one (11,201) female teachers are posted.

3. We reflected over the figures provided by the Director, Primary Education, in his affidavit. We are constrained to observe that these figures reflect poor state of affairs in so far as primary education in the State of Bihar is concerned. Out of four Primary Schools, one Primary School in the State has no building. How do you expect literacy rate to improve, if 25% of Primary Schools in the State do not have buildings? How do you expect twenty three thousand nine hundred thirty five (23,935) teachers employed in such schools, with no buildings to perform their task, of imparting education to young children? How do you expect about fifteen lac students (boys and girls) studying in those schools having no buildings to educate themselves. It is said, "if foundation is weak, building cannot be strong". A weak primary education leads to a weak society. For overall growth of the State on any front, education is a most vital aspect and without achieving the target of higher literacy, the State cannot progress. The State can compromise on other aspects but not the education.

4. Article 39(f) expects the State to direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity. Article 41 directs principally that the State shall make effective provision for education. Article 45 provides that the State shall endeavour to provide education to all children until they complete the age of fourteen years. These directive principles read with Article 21 of the Constitution of India cast a primary duty on the State to provide proper infrastructure for primary education. Today's children are tomorrow's future. For a brighter future, the State must take care of present by providing adequate number of Primary Schools with adequate infrastructure.

5. In what we have said above, in our view, utmost priority needs to be given by the State Government and its functionaries to ensure that twelve thousand four hundred seventy five Primary Schools, which have no building, are provided with buildings at the earliest.

6. We, accordingly, dispose of the writ petition by the following order:- (i) Six thousand three hundred ninety four (6394) school buildings, which are said to be under construction shall be completed as expeditiously as may be possible but in no case later than 31st March, 2009.

(ii) Six hundred sixteen (616) schools of which buildings are said to have been

completed, these Primary Schools shall be shifted, if not shifted so far, by 31st October, 2008.

(iii) The remaining five thousand four hundred sixty seven (5467) schools which have no building shall be housed in Pacca building preferably by 30th September, 2009 and in no case later than 31st March, 2010.

We observe that Standing Counsel-XV shall forward copy of this order to the Chief Secretary, Government of Bihar as well as the State Project Director, Bihar Education Project, for compliance.