

(2019) 08 PAT CK 0035

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 15385 Of 2019

Umesh Sharma (M) And Ors

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 23-08-2019

Acts Referred:

Citation : (2019) 08 PAT CK 0035

Hon'ble Judges : Shivaji Pandey, J;Partha Sarthy, J

Bench : Division Bench

Advocate : Prabhat Ranjan Singh, Shilpa Singh, Ranjan Kumar, Girijesh Kumar

Final Decision : Disposed Off

Judgement

Heard learned counsel for the parties.

Learned counsel for the petitioners seeks permission to delete the name of respondent no.10 from the cause title.

Permission, as prayed for, is granted.

In this case, the petitioners are raising a grievance that wrongly the authority has chosen the Medical School, Bairamsari, to be upgraded as High School in place of Middle School, Dehuni, which is situated at the middle of the Gram Panchayat.

The petitioner no.4, who has sworn the affidavit has mentioned the name of his village as Dehuni. The basic premise of the grievance is that the petitioners want that Middle School, Dehuni, should be upgraded at the level of High School, but as per the petitioners, the Middle School, Bairamsari, has been now notified to be upgraded at the level of High School. The grievance has been made that infrastructure wise the Middle School, Dehuni, has better place and location of the village connected by pitch road from three sides. It has further been urged that sufficient number of rooms are available in the Middle School, Dehuni, having electric connection including sufficient number of students, everything

was moving in favour of the Middle School, Dehuni, to be upgraded as High School as Aam Sabha and Executive Committee, Gram Panchayat, Golakhapur, in presence of Block Development Officer, Ghosi, took positive decision in favour of Middle School, Dehuni, but suddenly the Administration has changed its opinion and took decision in favour of Middle School, Bairamsari.

The selection of location of a School or Police Station or Hospital or declaration of a particular School for upgradation, completely lies within the domain of the Executive, selection of site are based on consideration of different elements having different administrative considerations. This Court in exercise of power under judicial review or in the Public Interest Litigation should not interfere with the Executive decision as they are the best persons to choose the site where the School or any Governmental Institution will be located.

In the present case, it appears that the decision has been taken by the Administration to declare the Middle School, Bairamsari as High School. Except the grievance raised by the petitioners there is no material to show that the action of the Administration is in any manner suffers from any illegality and this decision has been taken on consideration of several aspects of the matter, in such view, mandamus cannot be issued in such matters as has been held by this Court in C.W.J.C. No. 8344 of 2014 (Kedar Singh vs. The State of Bihar and Ors.), C.W.J.C. No.15789 of 2014 (Bhaiya Lal Prasad and Anr. vs. The State of Bihar and Ors.) and in the case of the Union of India and Ors. vs. S.L. Abbas reported in 1993 (4) SCC 357 and J.R. Raghupathy etc. vs. State of A.P. and Ors. reported in 1988 S.C. 1681.

However, the petitioners are at liberty to make a representation before the Three Men Committee, well quipped with the situation for redressal of their grievance, which will be obliged to examine the claim of the petitioners and take decision in accordance with law.

With the aforesaid observations and directions, this writ petition is disposed of.