

(2020) 12 PAT CK 0354

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 20179 Of 2019

Amresh Kumar

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision: Dec. 11, 2020**Hon'ble Judges:** Sanjay Karol, CJ; Partha Sarthy, J**Bench:** Division Bench**Advocate:** Vijay Kumar Singh, Shilpa Singh**Final Decision:** Disposed Of

Judgement

The petitioner has prayed for following relief(s):

â€œFor issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the Respondent Authorities to remove the

encroachment over the land of Rajkiyakirit Mahila Ship Kala Bhawan +2 Balika Vidyalaya, Chandwara, Muzaffarpur (hereinafter referred to as

School) which is being encroached by some anti-social elements by making building.

(II) For issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the Respondent Authorities to ensure the boundary

wall over the land of the aforesaid school on the ground that due to non- boundary wall of the school, the anti-social element encroached the land of

the school as also entering into the school, created nuisance with the teachers and students of the school which badly affected the atmosphere of the school.

(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner shall be found entitled under the facts and circumstances of the case.â€

Learned counsel for the State opposes the petition stating that the petition is misconceived; raises disputed question of fact; is not in public interest; and that the issue can be best resolved at the Government level by the appropriate authorities.

Learned counsel for the respondents states that if such a representation is filed by the petitioner, the authority concerned i.e. respondent no. 5 namely, the District Magistrate, Muzaffarpur, shall consider and dispose it of expeditiously and preferably within a period of three months from the date of its filing along with a copy of this order.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

Liberty reserved to the petitioner to approach the Court, if the need so arises subsequently on the same and subsequent cause of action.

We have not expressed any opinion on merits. All issues are left open.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.