

# RAJASTHAN HIGH COURT

Om Prakash

Vs.

State of Rajasthan

Civil Writ Petn. No. 2391 of 2001  
(Anil Dev Singh, C.J. and H. R. Panwar, J.)

17.07.2003

## JUDGEMENT

**Anil Dev Singh, C. J.**

1. By this petition, the petitioners *inter alia* challenge the decision of the Gram *Panchayat*, Bhacharna to shift the location of the school site from the site which was selected and agreed upon in the meeting of the Gram *Panchayat* dated 1st May, 1999.
2. The State Government approved the Scheme under which schools known as 'Rajiv Gandhi Swaranjayanti Pathshalas' were to be opened in villages of the State of Rajasthan. In pursuance of the Scheme the Gram *Panchayats* were directed to hold meetings on 1st May, 1999 for the purpose of deciding the location of the schools in the villages. Gram *Panchayat*, Bhacharna also held a meeting on 1st May, 1999 and decided to locate the school in khasra No. 2 of Ward No. 2. On 3rd May, 1999 the Chief Executive, Zilla Parishad, sanctioned a sum of Rs. 2,10,000/- for construction of the school.
3. It appears that the Gram *Panchayat* reconsidered the question of locating the school in the village and decided to construct the same in Khasra No. 15 of Ward No. 2 instead of Khasra No. 2 of Ward No. 2. Since Khasra No. 2 was 'gair mumkin nadi' land, the Gram *Panchayat* decided to shift the site to another location. Construction of the school at the new site was in progress when the instant writ petition was filed by the petitioners.
4. We have heard learned counsel for the parties. We do not find any merit in the petition.
5. It has been brought out in the reply of the respondent No. 4 that the original site of

the school was not appropriate as the land was 'gair mumkin nadi'. In *Hari Ram v. State of Rajasthan*<sup>1</sup> we have directed the State not to permit construction over lands which serve as catchment areas. Construction over catchment areas must be prevented by the State. In case, catchment areas are allowed to be constructed upon that will hamper and block the free flow of rain water into dams, lakes, ponds, reservoirs and other water bodies.

The State has faced an acute drought and every measure must be taken to see that the water resources are maintained and augmented.

6. The present site, as per the reply, is a pasture land and has been found to be appropriate for locating the school. The earlier site used to get water logged during the rainy season. From all counts the earlier site was found to be unsuitable. We are told that the construction of the school building has been completed and the students are already studying in the school. In the circumstances, therefore, we do not find any ground to interfere with the impugned action of the respondents.

Accordingly, the writ petition fails and is hereby dismissed.

Petition dismissed.

Cases Referred.

1. (D. B. Civil Writ Petition No. 1852/2002), decided on 29th April, 2003