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25/2/14

**IN THE HIGH COURT OF JUDICATURE AT PATNA.**

**(Civil Writ Jurisdiction)**

**C.W.J.C.No. \_\_\_\_\_ of 2014.**

Shivnandan Sah ----- **Petitioner.**

**-Versus-**

The State of Bihar and others ----- **Respondents**

**Subject:-P.I.L.**

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**IN THE HIGH COURT OF JUDICATURE AT PATNA.**

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**SYNOPSIS**

This public interest litigation application is being filed by the petitioner seeking following reliefs.

Issuance of an appropriate writ/ writs for directing the concerned respondents to shift the place of newly constructed bridge at 300 meters north from premises of jawalamukhi Kant Lal Mehta High School Phulout and said bridge is being constructed unauthorized and illegally by the concerned respondents near the said school against the public interest without considering the facts and

circumstances of the case, whereas place of construction of bridge is sanctioned at another place.

It is further prayed that village Phulout is divided in to two panchayat namely Phulout East and Phulout west but only one school is situated in both the panchayat and children of both the panchayat have been reading in said school which is situated in low land/flooded area under block Chousa in district Madhepura.

**Date and Events.**

**28.01.2014**- Representation filed by the petitioner in capacity of General villagers.

**Hence this writ application.**

**IN THE HIGH COURT OF JUDICATURE AT PATNA.**

**(Civil Writ Jurisdiction)**

**C.W.J.C. No. \_\_\_\_\_ of 2014.**

In the matter of an  
application under Article  
226 of Constitution of  
India.

And

In the matter of:

Shivnandan Sah, S/o Late Ayodhya Sah, resident  
of village and P.O. Phulout, P.S. Chousa, District-  
Madhepura.

-----**Petitioner.**

**-Versus-**

1. The State of Bihar.

2. The District magistrate, Madhepura, P.S. and District- Madhepura.
3. The D.D.C. (District Development Commissioner, Madhepura, P.S. and District Madheprua.
4. The Sub-divisional Officer, Kishunganj, District Madhepura.
5. The Executive Engineer Public work Department, Madhepura, P.S. District- Madhepura.
6. The Junior Engineer, Public work Department, Kishunganj, District- Madhepura.

-----**Respondents**

To,

The Hon'ble Ms. Justice Rekha M. Doshit, the Chief Justice of the High Court of Judicature at Patna and her companion Justices of the said Hon'ble Court.

The humble petition on behalf of the petitioner above named:

**Most Respectfully Sheweth :-**

1) That this writ petitioner seeks indulgence of this Hon'ble court for the following main reliefs:-

- (i) That issuance of an appropriate writ/ writs for directing the concerned respondents to shift the place of newly constructed bridge at 300 meters north from premises of jawalamukhi

Kant Lal Mehta High School Phulout and said bridge is being constructed unauthorized and illegally by the concerned respondents near the said school against the public interest without considering the facts and circumstances of the case, whereas place of construction of bridge is sanctioned at another place.

- (ii) That it is further prayed, that village Phulout is divided in to two panchayat namely Phulout East and Phulout west but only one school is situated in both the panchayat and children of both the panchayat have been reading in said school which is situated in low

land/flooded area under block Chousa  
in district Madhepura.

(iii) That any other writ or writs for  
granting any other relief or reliefs for  
which the petitioner is found entitled.

2) That the law points involved in the present  
writ petition are hereunder:-

(i) Whether the respondent authorities  
have justified by constructing the  
newly bridge near the school, when  
two Kilometer space is already vacant  
in north side from the said school?

(ii) Whether entire action and procedure  
adopted by the constructing newly  
bridge near the school, are otherwise  
illegal, improper and unjust.



- (iii) Whether entire action of the concerned respondents is violative of article 14 of the constitution of India.
- (iv) Whether by the impugned action is in fact instant to give an opportunity to Mukhiya of Gram Panchayat, Phulout, West against the public interest.
- (v) Whether the impugned action is the best example for non-application of the minds in connection with the jurisdiction as well as the abuse of power and authority, even in absence of valid and the reasonable grounds and above on the reasons the necessary legal interference is required in the present case?

(vi) Whether the impugned action of the respondent authorities are malafide, arbitrary, as well as contrary to the law and procedure.

3) That the petitioner is citizen of India and he resides within the territorial jurisdiction of this Hon'ble court. He is an advocate of this Hon'ble Court.

4) That petitioner is permanent resident of village phulout where Jawalamukhi Kantlal Mehta High Shool, phulout is situated and all of the children of said tow panchayat namely phulout East and phulout west have been reading in said school.

5) That this writ petition as public interest litigation has been filed on behalf of public of Gram Panchayat phulout for a direction to

the respondents for shifting the bridge about 300 meters north from the premises of school and same is being constructed in Gram Panchayat Phulout within 25 meters from the premises of said school without considering the facts and circumstances of this case.

6) That it is submitted that land has been acquired for the purpose of bridge near the said school whereas several plots in north about in two kilometer on the road of phulout to Alamnagar road is already vacant, and as such the respondents may be directed to construct the bridge in question minimum 300 meters far from said school for the interest of public.

7) That it is relevant to mention here that Jawalamukhi Kantlal Mehta High School

Phulout is situated in road side bearing Khsra no. 986 and just near the premises of said school, where newly bridge is being constructed for crossing the water.

Photostat copy of the part of the map showing details as regarding the said school is annexed herewith and marked as **Annexure-1** and it forms a part of this petition.

8) That posterior part of premises of school is directly effect by the said bridge in question because in that condition current of water will go from the campus of the school where building of school is situated. Therefore in the aforesaid facts and circumstances, this

school can be directly effected by the said water current and all the childrens of the village will be deprived from the study in J.M. K.L.M. High School, Phulout as a result of which all the public were affected.

- 9) That phulout village is situated in low land area and said village is affected by flood in every year. That newly bride is being constructed unauthorized and illegally just near the school at main road in the said college phulout. Therefore all the children of two Gram Panchayat of phulout will be deprived from their study, if said bridge is constructed because two storey building of school will be demolished due to water current of Koshi river.

- 10) That J.M.K.L.M. High School, Pulout is very reputed school, where several students of other blocks have also been reading.

Photostat copy of the admit card of one of the students is annexed herewith and marked as **Annexure-2** and it forms a part of this petition.

- 11) That it is relevant to mention here that the land has been acquired but there is not sanctioned properly by the concerned respondents for construction of said bridge in question.

- 12) That it is said that Mukhia of Gram Panchayat Phulout, west namely Ramdeo Mehta is very resourceful person and he has

possessed several plots bearing plots No. 1023 and 1025, north from the school in phulout, who always tried to disturb the construction of bridge in front of his land, therefore newly place for bridge near the school was unauthorizedly selected by the concerned respondents with Mukhia through conspiracy.

13) That the petitioner repeatedly requested before the authorities concerned against the said impugned action of the concerned respondents but no action has been taken up as yet by the concerned authorities.

14) That ultimately, petitioner has submitted his representations before concerned respondents but no coercive action has been taken up as yet.

Photostat copies of representations dated 28.01.2014 before concerned authorized are annexed herewith and marked as **Annexure-3 Series** and it forms a part of this petition.

- 15) That the petitioner has been left no other alternative and equally efficacious remedy than to move before this Hon'ble court through this writ petition for redressal of his grievances.
- 16) That the petitioner has not moved earlier in this matter before this Hon'ble Court for grant of reliefs as prayed for paragraph No.-1 of this petition.



It is, therefore, prayed that your Lordships would graciously be pleased to admit this application issue Rule NISI, asking the respondents to show cause as to why the reliefs prayed for in paragraph no.-1 of this writ petition be not granted to the petitioner and on cause being shown, if any, and after hearing the parties be pleased to allow by granting reliefs to the petitioner in terms of para-1 of this petition.

AND/OR

During the pendency of this application be further pleased

to stay the construction work of  
bridge in main road of Gram  
Panchayat phulout under  
Block- Chousa in district-  
Madhepura.

AND/OR

Pass such other order or orders  
as your Lordships may deem fit  
and proper.

And for this the petitioner shall ever pray.

**AFFIDAVIT**

I, Shivnandan Sah, aged about 44 years, S/o Late Ayodhya Sah, resident of village and P.O. Phulout, P.S. Chousa, District- Madhepura, do hereby solemnly affirm and state as follows:-

1. That I am petitioner in this writ application and as such well aquatinted with the facts and circumstances of the case.
2. That the contents of this petition have been read over and explained to me in Hindi and understood by me. The statement made in paragraph nos. 1 to 6, 8, 9, 11 to 13 and 15 are true to my knowledge and the statements made in paragraph nos. 7, 10, 14 are true to my information derived from the relevant record of the case and rests are by way of submission before this Hon'ble Court.
3. That the Annexures are photo/true copies of their respective original

Annex 1

Phulout No. 88

Annexure-1

नाम ग्राम

फुलौत

चादामोर

(17)

धाना नम्बर

८८

राजस्व धाना

किशुनगंज

ग्रंचल

चौरसा

जिला

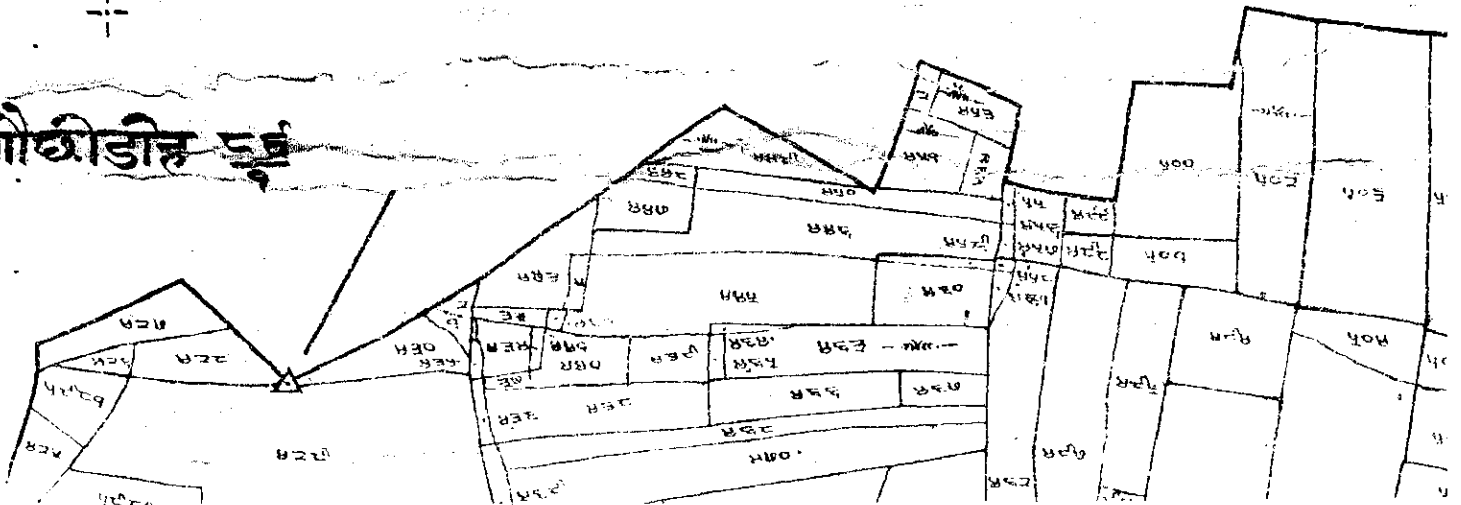
सहरसा

माप १६" = १ मील

[१ सें. मी. = ३६.६० मीटर]

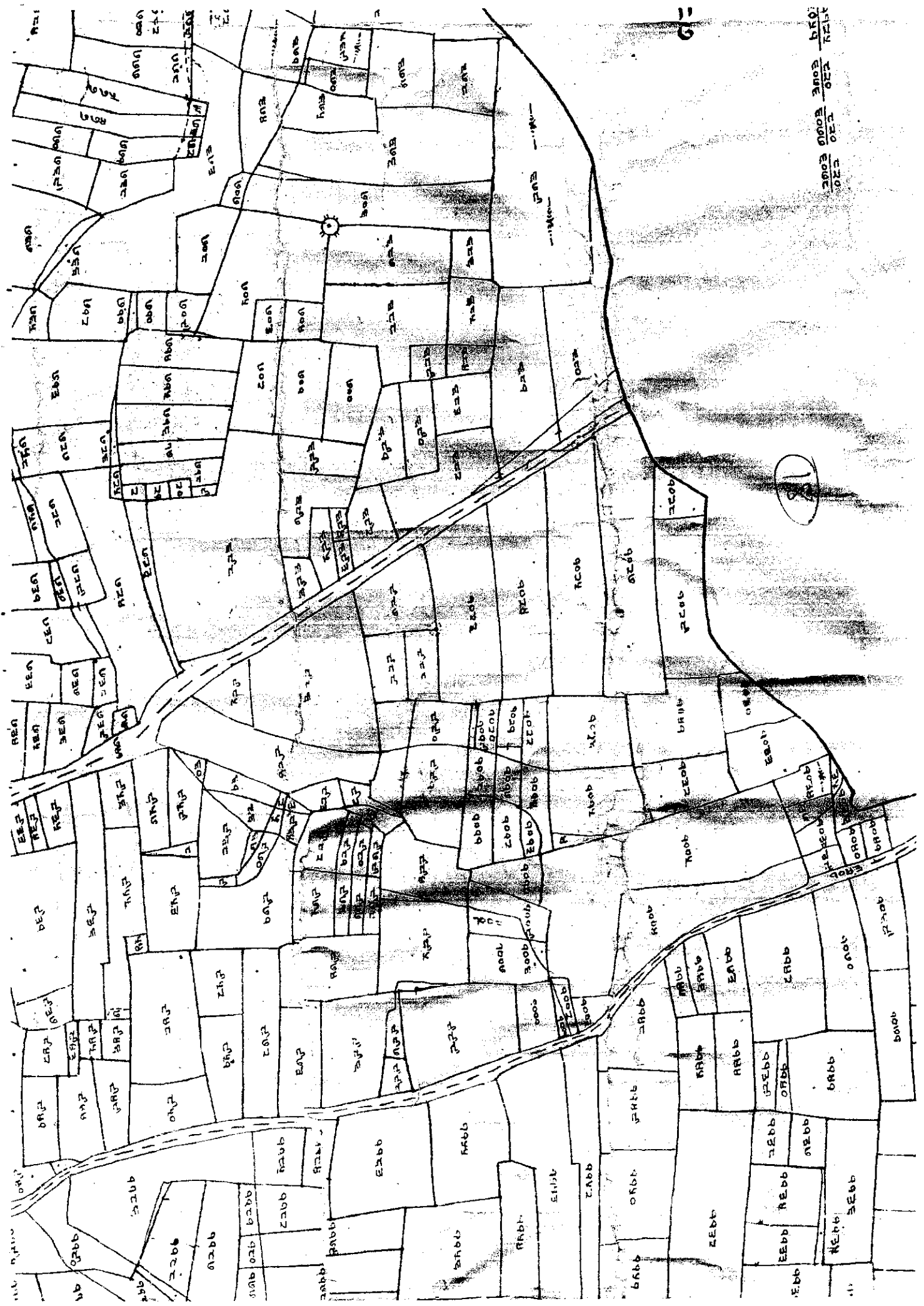
सन् १९६५-६६ ईस्वी

गौरीडीह डूंग



10124 10125 10126 10127  
10128 10129 10130 10131

10





बिहार विद्यालय परीक्षा समिति, पटना  
वार्षिक माध्यमिक परीक्षा - 2011  
प्रवेश - पत्र

Annexure-2

Sl. No. - 4042948

(19)

परीक्षार्थी का नाम : GIRDHAR KUMAR SAH  
माता का नाम : INDIRA DEVI  
पिता का नाम : DIPNARAYAN SAH  
जन्मतिथि : 04/01/96 लिंग : MALE  
पंजीयन संख्या/वर्ष : 43047-19281-10  
कोटि : REGULAR  
विद्यालय का नाम : J M K L M HIGH SCHOOL PHULAUT  
परीक्षा के विषय :



000 7559

Giridhar  
Kumar

मातृभाषा	द्वितीय भारतीय भाषा	अनिवार्य विषय	
HND	SNK	SC MTH	SSC ENG

रोल कोड : 43047 क्रमांक : 0183

परीक्षा केन्द्र का नाम : SWAMI VIVEKANAND COLLEGE MADHEPURA

परीक्षा प्रारम्भ की तिथि : 23/02/2011

430470069-43

विद्यालय प्रधान का हस्ताक्षर एवं मुहर

Amr K. Sinha

सचिव

सेवा में

श्री मात जिता पदाधिकारी मधुपुरा  
विषय- राज प्रशासन कुलौद में जाला मुखा  
कालाए इत विद्यालय कुलौद के समी  
पदकी सःक पर लत रः पुल के निर्मा  
कार्य के विरुद्ध के मतवाय में

महाशय, मु विरुध विवेकत है कि हमलो राज  
कुलौद (पदम) चौथा जिता-मधुपुरा के विद्यालय  
दथा हमारे गाँव के काल में कुलौद मुखा  
सःक में सः पुल जाला मुखा कालाए  
इत विद्यालय आविषत है  
इस गाँव के वर्य के अलावे बाहर के भी  
लर्य इत विद्यालय में पढत है  
मेरा गाँव अरसाद के समय में बाह  
राला रःदा है

विद्यालय इत विद्यालय के समी कुलौद  
पदकी सःक पर पुल तः विरुद्धी पुल  
का जो कार्य चाल रःदा है उसमें पुल  
विद्यालय को लःदा वःदी कति होगी  
अरसाद के समय में पाती का एतः विद्यालय  
होकर होगी

जिसे विद्यालय मत को मति होगी  
दथा 467-4167 को कार्य की 44 45  
जायगी। जिसे पुल गाँव के वर्य 4615  
में लःचत हो जायगी

श्री मात का एयात आकृषित  
करा चःदा है कि कुलौद गाँव के  
इत विद्यालय के इत विद्यालय में लःदा  
वःदी लःच रःदा पःदा है

(21)

उक्त जमीन में सिर्फ खेती की जाती है  
जहाँ कोई घर और झर नहीं है तथा  
नहीं कोई कारोबार होता है।

उपरोक्त तथ्यों एवं परिस्थिति को  
देखते हुए श्रीमान से आग्रह है कि  
विद्यालय की सुरक्षा हेतु कम से कम  
विद्यालय की जमीन से (उत्त) सीमा लगे मात्र  
उत्तर-उत्तर पुल के स्थान में परिवर्तित कर  
पुल निर्माण कार्य करवाने की आशा प्रकट  
करे, जिससे कि विद्यालय की सुरक्षा हो  
सके तथा गाँव के बच्चे भी पढ़ाई से  
वंचित न हो सकें।

आतः श्रीमान से निवेदन है कि  
उक्त नव निर्माणधीन पुल को रोकते  
हुए कम से कम विद्यालय परिवार  
से (उत्त) सीमा लगे मात्र की इरी पर  
एक पुल निर्माणधीन कार्य  
करवाने की आशा प्रकट करे इसके  
लिए हम कुलौद राम वाली से  
श्रीमान के आगारी रहेगी।

आपका समस्त राम वाली

- (1) शिवनन्दन साह
- (2) मोहित साह
- (3) तपेश्वरी साह
- (4) सुरेश साह



दिनांक - 25/11/2016





(23)

विद्यालय के उत्तर दिशा में बहुत बड़ा क्षेत्र खाली पड़ा हुआ है।  
 उक्त जमीन में भूमि लेनी की गारंटी दी गई है।  
 न कोई धूल और झाल नहीं है तथा न ही कोई काली बाल होता है।  
 उपरोक्त स्थान पर पारिवारिक की सुविधाएं  
 हुए जमीन से आसानी है कि विद्यालय का सुलझा हेतु कम से कम विद्यालय की जमीन (300) बीघा (10) मोटर उत्तर उत्तर पूरब की दिशा में पारिवारिक की सुविधाएं  
 भूमि कार्य करवाने की आसानी प्रदान करें।  
 जिससे कि विद्यालय की सुलझा हो सकें  
 तथा गाँव के बच्चे भी पढ़ाई में लगे रहें  
 सही सकें।

अतः जमीन से निवेदन है कि उक्त जमीन विद्यालय पुनर्निर्माण के लिए कम से कम विद्यालय पारिवारिक (300) बीघा (10) मोटर की सुविधा प्रदान कर सकें।  
 पुनर्निर्माण कार्य करवाने का आसानी प्रदान करें इसके लिए हम पुनर्निर्माण जामवासी (10) जमीन के आसानी करेंगे।

आपकी सहायता जामवासी। —

(1) शिव नरेश साहू

(2) मनदुर्ग साहू

(3) नवीन साहू

(4) सुरेश साहू

दिनांक 25/11/2014



सेवा में -

श्री मीत अनुमंडल पदाधिकारी

उदा किशु + रांग, मधेपुरा

24

विषय - श्रीम पंचायत कुलौद में ज्वालना  
मुल्की कलालाल उच्च विद्यालय कुलौद की  
सामग्री पक्की सड़क पर लटके पुल के निर्माण  
कार्य के विस्तार के सम्बन्ध में

प्रति,  
श्री विनाय निवेदन है कि हमलोग श्रीम

कुलौद पंचायत, चोला जिला - मधेपुरा के विद्यालय

ज्या एमारे गाँव के बगल में कुलौद मुल्की  
सड़क से लटके पुल ज्वालना मुल्की कलालाल  
उच्च विद्यालय उपर निर्मात है

इस गाँव के बच्चों के उच्चावच सड़क के नीचे  
बच्चे उच्चा विद्यालय में पढ़ते हैं

मेरी गाँव बरसात के समय में सड़क से  
जल भर जाता है

अन्य बाल उच्च विद्यालय के सामने कुलौद  
पक्की सड़क पर पुल का निर्माण होना पुल

का भी कार्य चल रहा है उससे उच्च  
विद्यालय की बहुत बड़ी क्षति होगी

बरसात के समय में पानी का उच्चा विद्यालय  
होकर होगा

इससे विद्यालय गत की क्षति होगी

ज्या पट्ट - 4167 का कार्य नं 84 45

जायेगा | इससे पूरे गाँव के बच्चे उच्चा

से बर्बाद हो जायेंगे |

श्री मीत का ध्यान आश्चर्यजनक है

(25)

चाहना हूँ कि कुल्लू गाँव के इलाके/गाँव  
 के उत्तर की दिशा में बहुत बड़ा झोंरा खोला  
 पड़ा हुआ है  
 उक्त जमीन में सिमेंट रोटी की गाली हो  
 जहाँ न कोई धर और डाल नहीं है, तथा  
 न ही कोई काको बर होना हो  
 उपरोक्त स्थान एवं परिस्थिति को  
 देखते हुए श्रीमान से आग्रह है कि  
 विद्यालय की सुरक्षा हेतु कम से कम  
 विद्यालय के जमीन में (उत्तर) की (सी)  
 भीटर उत्तर उक्त पुल के स्थान में  
 परिवर्तित कर पुल निर्माण कार्य करवाने  
 की आज्ञा प्रदान करें जिससे कि विद्यालय  
 की सुरक्षा हो सके तथा गाँव के बच्चे  
 की पढ़ाई से बाधित न हो सके।  
 आद: श्रीमान से निवेदन है कि  
 उक्त नवनिर्मित पुल को लोकल डे  
 कम से कम विद्यालय परिसर में (उत्तर)  
 की (सी) भीटर की दूरी पर तक लाकर  
 पुल निर्माण कार्य करवाने का  
 आज्ञा प्रदान करें, इसके लिए हम प्रार्थना  
 राम वाली सदा श्रीमान के अगरी रहेंगे।  
 आपका समस्त रामवाली।



- (1) शिवराम शर्मा
- (2) मजदुर साहू
- (3) गौरी साहू
- (4) सुरेश साहू

दिनांक 25/11/2014



(27)

श्री मीत की एम. आर. आर. के अंतर्गत  
 आया है कि एम. आर. आर. के  
 इस विधालय के अंतर्गत 1921 में बसा  
 बड़ा क्षेत्र खाली पड़ा हुआ है  
 (उस जमीन में सिर्फ खेती की जाती है)  
 जहाँ 7 कोर्स धूल कोट बाल नहीं हो  
 तथा 1 ही कोर्स कोट बाल होता है  
 उपरोक्त स्थान पर परिवर्तित की  
 देवती है श्री मीत से आर. ए. है कि  
 विधालय की सुरक्षा हेतु कम से कम  
 विधालय के जमीन से (उत्तर) क्षेत्र को  
~~उत्तर~~ उत्तर उत्तर उत्तर के क्षेत्र  
 में परिवर्तित कर पुनर्निर्माण कार्य  
 करवाने की आशा प्रकृत कर, जिससे  
 कि विधालय की सुरक्षा ही एक तथा  
 गाँव के बच्चे भी पढ़ाई से बाधित  
 न ही एक।

अतः श्री मीत से निवेदन है

कि उत्तर ~~क्षेत्र~~ एवं निर्माणाधीन पुन  
 की लीकरी हुए कम से कम विधालय  
 परिसर से (उत्तर) क्षेत्र को भी उत्तर  
 परिसर की सुक पुनर्निर्माण  
 कार्य करवाने की आशा प्रकृत कर (उत्तर)  
 कि एम. आर. आर. गाँववाली भूमि को  
 मीत के अन्तर्गत लेंगे।

आपकी (11/12/2014)  
 (1) 23/2/2014 (1) 21/1/2014 (1) 1/1/2014  
 (1) 23/2/2014 (1) 21/1/2014 (1) 1/1/2014



भारतीय डाक  
 डाक सेवाएँ  
 डाक बंदी  
 डाक टिकट