

A brief outline of The issue of Bandyali School

(This is a summary of what is written in so many documents circulated these days. The narrative part is dropped. May not be sufficient to understand the issue fully, but would be useful to crystallise it if the other material is already read. Alternatively it could also be a good beginning!)

Part A: The Facts

The School today:

- Children: 324, Girls: 201
- Upper Primary Children: 170, Girls 160
- Teachers: About 13
- The children come from the local community and belong to very disadvantaged local communities including malis, gujjars and muslims. The school is on the outskirts of Jaipur bordering two villages of Kho Nagorian and Bhavgargh Bandhya, south east of Jaipur

Infrastructure today:

- A kachcha building with 13 classrooms and an office room
- Hand pump for drinking water
- Cycle stand
- Toilets for girls and for boys
- Play ground
- Total Area used around 10,000 square meters (including play ground).

Pedagogy:

- Un-graded classrooms
- No examinations and no pass-fail system
- Self learning with understanding, cooperation in learning and peer-group learning emphasized.
- Children appear for examinations conducted by the District Education Office for class 5 and for class 8. No other exams.
- Excellent results so far: 315 children have passed class V and 87 girls have passed class VIII.
- Almost all girls in the area who have passed standard eight are students of this school.

History of the school and applications:

- Established in 1992 under a project financially supported by the MHRD.
- Place selected through a series of community meetings. On the basis of suitability for children to walk from various hamlets.
- Applied to the collector of Jaipur on February 17, 1993
- Work on the kachcha building started in March/April 1993, school moved in the new building in July 1993
- Second time applied to collector on October 21, 1995
- Third time to JDA on May 2, 2000
- Fourth time to JDA on April 8, 2003, requesting allotment of 15000 sq meters of land for an upper primary school.

- ❑ Received a response for the first time asking application fee and documents like registration certificate, audited accounts for three years etc. all submitted in due time.
- ❑ (I might have left out some applications)

The crisis

- ❑ News in local press that the land reserved for a private university in June 2005.
- ❑ Digantar moved the High Court in August 2005 to stay the allotment of land and direct JDA to consider Digantar application. High court directed JDA to first hear Digantar.
- ❑ JDA called Digantar representatives to appear before a committee (Land and Property Committee) on 23rd November 05.
- ❑ JDA sent letter informing Digantar that their application is rejected on 2nd December 05. Also issued the notice to vacate the school land on the same date, and hand delivered on the same day.
- ❑ Digantar again moved the High Court seeking a stay on decisions of JDA, the rejection of application and notice for vacation of land. To direct JDA to regularize the land. Not to allot the land on which the school is running to any one else.
- ❑ Next hearing in the High Court on 19th December 2005.
- ❑ *There is a board next to the school put up by Digantar* that states that the land on which the school runs belongs to the government, that the organization is not interested in land, but in running the school. It is the duty of the government to provide place to run the school.

Digantar

Digantar is a registered society under the Rajasthan Societies Regulation Act, 1958, and since 1987. It has been working since 1978 in the field of education. Their areas of work include curriculum, alternative pedagogy for elementary education and teacher development. They have contributed to several innovative national endeavours including Lok Jumbish in Rajasthan, the Alternative Education Scheme of the Rajiv Gandhi Sikshna Mission, Madhya Pradesh, and textbook development of NCERT.

The organisation is run by Rohit Dhankar and Reena Das.

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Part B: Our Argument

The Fundamental Right to free education

- Fundamental Right to “free and compulsory education” is granted to every
- child in the age group of 6-14 years under Article 21A, as a consequence of ‘The Constitution (Eighty-Sixth Amendment) Act, 2002’.
- Closure or dislocation of the school will lead to disruption of education of 325 children, and an end to education of more than 200, majority of whom shall be girls. In addition it would mean a lost opportunity to many future students.
- “Neither the state government nor any of its agencies/ authorities
- can be allowed to **supersede a claim under the Fundamental Right to education in favour of a claim that is not covered by any of the Fundamental Rights.** A cause like
- allotment of land for a private university, as per JDA’s decision, is not covered by any of

- the Fundamental Rights since it is meant to provide commercialized education to students
- **over 18 years of age** and who will be”. (From Prof. Sadgopal’s letter)
- Therefore, closure of a school in this case would be violation of the constitution of India.

Discrimination against Digantar

- Even if JDA claims that all earlier applications were on plain paper and no application fee was paid for them the application of April 8, 2003 cannot be ignored, it was ‘complete’ in every respect.
- This application mentions willingness to pay for the land at confessional rates that the government itself decides for the allotment of land to schools.
- The school is free and all books and stationery is provided for free.
- On what grounds then does JDA allots land to a later applicant? Are such decisions based on the sweet will of the official of the day? Can they be arbitrary? Should not Digantar expect a fair treatment in this case?
- I am informed there are Supreme Court judgments that imply ‘legitimate expectation to be heard’ for the applicant that applies first. And their application has to be judged on merit.
- In addition Digantar will use the land for public benefit and not for private profit, that constitutes additional merit.
- Is there a redressal in the law for this kind of deliberate discrimination?

The moral aspect of calling Digantar an encroacher

- Partly dealt in the point above.
- Encroachment in ordinary language means “entry to another's property without right or permission”
- Digantar started the school with the active recommendation of the community, and sent an application to the legal authority that was responsible for the land one month or so before the building was started. No response came.
- That does not give Digantar entitlement to the land, but it absolves Digantar of any land-grabbing intentions. Digantar has been informing through applications to legitimate authority about running of the school. They never asked to vacate.
- Also there is a board next to the school that states that the land does not belong to Digantar, it belongs to the government. The board was put up by Digantar itself.
- The legitimate authority dealing with land allotment (JDA) did not do what was expected of it (consider the application, accept or reject it) and by sheer inaction made Digantar into an encroacher. This is injustice by inaction.

Legal aspect of possession of the land:

- Even if JDA does not accept our arguments and intentions as expressed in two points above then they have to accept that school is running there for more than 12 years, there is plenty of documentary evidence.
- A possession that old can be removed only by due process of law: that is the JDA should go to the civil court and get a decree from there. They cannot directly demolish the school.
- I am informed that there is a JDA regulation to regularise all land that is occupied before 1994, there are more than a lakh of such cases in Jaipur. Then why not regularise Digantar. Discrimination again.

What do we want?

- Our primary concern is running of the school. The school needs to be taken to the level of Senior Higher Secondary, to serve the cause of girls' education properly.
- We want to start an institution of education (for research in pedagogy and teacher education) that takes the pedagogical work being done further academically. Such institution can start with our best and biggest school only. But that would require more land (total about 7 acres) than what we have applied for, and that possibility is remote now.
- The school would be free, and all ventures of Digantar are non-profit activities.
- If the government gives this land to us on lease for a long period, for this specific purpose, it would be our first priority. We are not interested in ownership or making profit out of it.
- Alternatively the government can allot the land with condition that we cannot sell it, cannot use for any commercial activity, and that the school shall be free.
- If even that is not possible (but why?), then we are willing to buy the land at a price that is charged from free schools. We have already said that in our applications and written statements to JDA.

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