

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7744 of 2015

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Shaheen Anjum daughter of Md. Alimuddin, Resident of Mohalla- Purani
Munsafi, Police Station- Muffasil, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The District Magistrate, Aurangabad, Bihar.
3. The District Education Officer, Aurangabad.
4. The Block Development Officer, Aurangabad.
5. The Block Employment Committee, Aurangabad.
6. The Block Education Officer, Aurangabad.
7. The Head Master, Upgraded Middle School Jarmakhap, Aurangabad.
8. Shahina Khatoon, Block Teacher, Middle School Babhandi, Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Kamendra Prasad Singh, Adv.

For the Respondent/s : Mr. Ram Balak Mahto, AG

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 17-07-2015 The prayer of the petitioner in this writ application reads
as follows:-

“1. That this is an application for issuance of an appropriate writ/writs, order/orders, direction/directions for setting aside the order dated 6.11.2014 passed in Case No.10 of 2014 by learned District Teacher Appellate Tribunal, Aurangabad and order dated 11.3.2015 as contained in Memo No. 289 passed by the Block Development Officer, Aurangabad whereby and whereunder the petitioner has been transferred from Middle School Jarmakhap to Middle School Babhandi.”

Learned counsel for the petitioner has submitted that the



petitioner, being a Prakhanda Teacher on 15.12.2012 and also posted in Madhya Vidyalaya, Babhandi could not have been disturbed on account of the promotion of respondent no.8 for her being posted in Upgraded Middle School, Jarmakhap and, to that extent, the order of the District Teacher Employment Appellate Authority, Aurangabad dated 6.11.2014 suffers from apparent illegality who had interfered with the order of place of posting of the petitioner by directing reconsideration of the case of the petitioner vis-à-vis respondent no.8 for the purpose of posting in Middle School Jarmakhap and adjust the petitioner to some other school. According to the learned counsel for the petitioner, once the petitioner's posting was made by the Block Development Officer in the Jarmakhap Middle School, the same could not have been disturbed by the Tribunal. For the same reasons, learned counsel for the petitioner has also assailed the consequential order passed by the Block Development Officer, Aurangabad transferring the petitioner from Middle School, Jarmakhap to Middle School, Babhandi.

Learned counsel for the respondent has however fairly submitted that the petitioner has already joined in the transferred school, namely, Middle School, Babhandi in compliance of the order of the Block Development Officer, Aurangabad and only

thereafter has filed this writ application on 14.5.2015.

Learned counsel for the State, on the other hand, has defended the impugned order passed by the Tribunal and the consequential order passed by the Block Development Officer, Aurangabad on the ground that since it is not denied that the respondent no.8 was placed at the top of the panel, her place of posting in accordance with the choice given by her in course of counseling had to be strictly adhered to and if that was not done by the Block Development Officer, Aurangabad while passing the order dated 2.1.2013, the respondent no.8 has reason to move before the competent Tribunal as against the order dated 2.1.2013 passed by the Block Development Officer.

This Court has carefully perused the order of the Tribunal from which it appears that the appointment of the petitioner and respondent no.8 as well as others was made only in compliance of the order of the Tribunal. Thus, when the appointment was followed by posting of the petitioner and respondent no.8, the requirement of Rule was to be followed which lays down that as per the merit list, the counseling will be done and place of posting will be decided as per the choice. It is here that the case of the petitioner would receive a back seat, inasmuch as, the respondent no.8 was at the top of the panel and once it is not denied that she



had opted in course of counseling for posting in Madhya Vidyalaya, Jarmakhap, there would be nothing left for this Court but to hold that the initial order of posting of the petitioner was itself contrary to the provision of Rules. The Tribunal in fact has also gone into the aspect that the respondent no.8 is not only better on merit but also having qualification of teacher training on the basis of which she was judged the best candidate in the panel. In this regard, the finding of the Tribunal is quite specific which has also referred to the provisions of Rule.

Thus, this Court does not find any error in the order of the Tribunal and the consequential order passed by the Block Development Officer specially when the petitioner had also contested the claim of the respondent no.8 of her being posted in Middle School, Jarmakhap before the Tribunal.

At the end of the day, the post of Panchayat Teacher/Prakhand Teacher becomes transferable in case of administrative exigency under the order of the superior authority of the Department and the Tribunal itself had passed the order for considering the case of the respondent no.8 for her posting in the school at Jarmakhap for which she had actually given her option in terms of the Rules, this Court is not required to interfere with the ultimate decision of the Tribunal.

As noted above, the petitioner has already joined in the transferred school at Babhandi and the respondent no.8 has also joined in the upgraded Middle School, Jarmakhap.

Thus, this Court does not find any merit in this application and the same is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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