

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1183 of 2014

IN

Civil Writ Jurisdiction Case No. 13840 of 2013

- =====
1. Ranjan Kumar, S/o Late Sachchida Nand Singh, R/o Bharadwaj Nagar Mohan Eghu, P.S. - Mufassil (Begusarai), District - Begusarai.
 2. Dhananjay Kumar, S/o Jai Jai Ram Jha, R/o - Amraur, P.O. Singhau, P.S. Mufassil (Begusarai), District - Begusarai.
 3. Binay Kumar, S/o Nand Kishore Singh, R/o Village + P.O. - Bikrampur, P.S. - Cheria Bariyarpur, District - Begusarai.

.... Appellants

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Deputy Development Commissioner, Begusarai.
3. The Director, Primary Education Department, Govt. of Bihar, Begusarai.
4. The Regional Deputy Director of Education, Munger.
5. The District Education Officer, Begusarai.
6. The District Program Officer (Establishment), Begusarai.

.... Respondents

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Appearance :

For the Appellants : Mr. Purushottam Kumar Jha, Adv.

Mr. Avanindra Kumar Jha, Adv.

For the Respondents : Mr. Kundan Bhadur Singh, S.C. 22.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10-04-2015

It is startling to note that on an average each teacher in the State of Bihar has two cases to his credit in the High Court. Hardly they evince any interest in teaching and they have the habit of rushing to the Court at every stage, if not to different authorities, on one pretext or the other. The result is that the High Court is flooded with the

litigations pertaining to teachers and hardly the teachers have any time to impart instructions to the students. The appellants herein seem to be almost in the leading front.

The appellants were appointed as teachers and they were extended the benefit of Trained Graduate Teachers with effect from 31.12.2012. On account of the enhancement of their status, it has become necessary to shift them to other nearby places within the district. Having availed the benefit of promotion or upgradation, the appellants who started litigating the matter pertaining to the transfer. They wanted to remain at the places of their choice at any cost. The Rules framed by the Government are such that a teacher is permitted to remain at a place of his choice for decades together.

The petitioners approached the Deputy Development Commissioner, the 2nd respondent herein, feeling aggrieved by their transfer to other places. The matter is still pending. However, they filed C.W.J.C. No.13840 of 2013, with a prayer to direct the respondent authorities to allow and grant the posting of the petitioners at the place of their choice, in view of Rule-3 of Bihar Nationalized Elementary Teachers- Transfer Rules, 2006 and guidelines in this regard, issued by the Director of

Primary Education on 11.6.2011. Learned single Judge dismissed the writ petition through order dated 5.6.2014. Hence, this Letters Patent Appeal.

Heard Shri Purushottam Kumar Jha and Shri Avanindra Kumar Jha, learned counsel for the appellants, and Shri Kundan Bahadur Singh, learned counsel for the respondents.

We take serious exception to the cantankerous nature and litigating tendency of the petitioners. The transfer became inevitable on account of the upgradation. If they did not want to move out from the place, they ought to have foregone the promotion. However, the petitioners wanted promotion and at the same time, to remain at the place of their choice

We have perused the relevant Rules. They are purely in relation to ordinary transfers. Clause 7 thereof simply enables the aggrieved person to submit a complaint before the 2nd respondent herein. It is not even an appellate forum, much less any adjudication takes place there. The guidelines issued by the Director of Primary Education on 11.6.2011 are in the context of the choosing places for effecting general transfers. They do not get attracted in cases of the transfers which are made as a sequel to

upgradation.

We, therefore, dismiss the Appeal with costs of Rs.2000/- against each of the appellants. The amount shall be recovered from the salaries of the appellants by the Head Master, and the same shall be utilized for the purpose of improving the facilities in the respective schools. Compliance shall be reported to the District Superintendent of Education. It is also made clear that in future, if the same approach is adopted by the appellants, the amount of costs may be enhanced, and whenever it is found that a teacher is indulging in such type of litigations, similar approach would be considered.

Interlocutory application, if any, stands disposed of.

(L. Narasimha Reddy,CJ)

(Shivaji Pandey, J)

K.C.jha/-
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