

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.22549 of 2014**

=====

Devesh Kumar Mahto, aged about - 42 yrs. S/o Late Jamuna Prasad Mahto.  
R/o vill - Kushwaha Tola, P.S.- Barharwa, Disst.- Sahebganj (Jharkhand).  
.... .... Petitioner

Versus

1. The State of Bihar.
2. Principal Secretary, Deptt. of Home (Spl.), Bihar, Patna.
3. Spl. Secretary, Home (Spl.) Deptt. Bihar, Patna.
4. Director, Primary Education, Bihar, Patna.
5. The State of Jharkhand through the Principal Secretary, Human Resources Development Department (Primary Education Directorate), Jharkhand, Ranchi.
6. Dayanand Rajak. S/o Late Mangal Rajak. R/o Konard, P.S.- Asthwa, Distt.- Nalanda.

.... .... Respondents

=====

**Appearance :**

For the Petitioner/s : Mr. Mukesh Kumar  
For the Respondent/s : Mr. Ram Balak Mahto

=====

**CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA**  
**ORAL ORDER**

2      17-07-2015                      Heard learned counsel for the parties.

Having regard to the fact that the petitioner being employee of a divisional cadre wants direction to the State Government for mutual transfer, this Court must hold that as per provision of Section 74 of the Bihar Re-organization Act such transfer by way of allocation of services to a member of the divisional/ district cadre is not permissible because the basic principle of re-allocation was that though an employee who was working either in the district cadre or divisional cadre shall stand allocated to the district/ divisional cadre in which the respective successor State have fallen.

The reliance placed by the learned counsel for the petitioner on the order of the Government of India dated 9<sup>th</sup> December, 2009 in this regard is also wholly misplaced because that cannot be treated to be a direction under section 76 of the Act. The Central Government has made it clear that it has no role to play in the mutual transfer of non-State cadre employees.

That being so, this Court is not in a position to issue any direction, especially when such provision was also not noted in an order of this Court dated 21.2.2012 in C.W.J.C.No. 3207/2012.

Thus, for the reasons indicated above, this application must fail and is hereby dismissed.

**(Mihir Kumar Jha, J)**

surendra/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|