

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

**Civil Writ Jurisdiction Case No.10843 of 2016**

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Pramod Kumar, son of Late Ganga Sagar Chaudhary, Presently posted as Senior Accounts Clerk, Rural Works Department, Work Division, Hathua, P.O. and P.s. Mirganj, District-Gopalganj.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer-in-Chief-cum- Additional Secretary -cum- Special Secretary, Rural Works Department, Government of Bihar, Patna.
4. The Additional Secretary to the Government, Rural Works Department, Government of Bihar, Patna.
5. The Executive Engineer, Rural Works Department, Works Division, Hathua, P.O. and P.S. Mirganj, District-Gopalganj.
6. Sri Babu Lal Murmur, son of not known to the petitioner, Presently posted as Senior Accounts Clerk, Works Department, Katihar, District- Katihar.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Ms. Anita Kumari

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

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**  
**ORAL JUDGMENT**

**Date: 16-08-2016**

Heard learned counsel for the parties.

Petitioner has challenged his transfer order, contained in Annexure-1, dated 30<sup>th</sup> of June, 2016. Name of the petitioner appears at Sr. No.46 of the said notification. The primary contention of the counsel for the petitioner against the order of transfer is that he is an office bearer of the union in the capacity as Secretary and has been elected to the said post in January, 2016.

If that be so, then in terms of the resolution and

decision, contained in Annexure-3, dated 17<sup>th</sup> of May, 1995, an office bearer ought not to be transferred during the period he holds that office.

Such a view of not disturbing office bearers of a recognized union is in place for a long period of time. In fact, Annexure-3 is not stand alone notification, but the same has also been talked about in the communication, contained in Annexure-4.

The stand of the State is that Annexure-1 is a general transfer and part of a decision to effect such transfer for administrative reason as well as taking into consideration the importance of the post, petitioner is holding, Annexure-1 ought not to be interfered with, in so far as it relates to the petitioner.

So long as the policy decision with regard to office bearer of a recognized unions remains on paper, the advantage of the said circular or immunity will be required to be extended to the office bearers, unless it is established that the conduct of the office bearer is not befitting that of a government servant or his continuance on that post and position is not for public good or for better administration.

Since the above facts have not emerged in the stand taken by the respondents in the counter affidavit,



the impugned order, contained in Annexure-1, in so far as relates to the present petitioner, stands quashed.

Writ application is allowed.

**(Ajay Kumar Tripathi, J)**

SKM/-

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