

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13005 of 2016

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Ashok Paswan, Son of Sri Ram Swarup Paswan, Resident of village - Bauka Majrakh, P.O. - Aamgachhi, P.S. - Sikti, District - Araria (Bihar), Posted as Assistant Teacher, Upgraded Middle School, Bauka Uttar, Block - Sikti (Araria).

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Primary Education, Human Resources Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The Regional Deputy Director (RDD), Education, Purnea Division, Purnea.
4. The District Magistrate (D.M.), Araria.
5. The District Education Officer (DEO), Araria.
6. The District Programme Officer (Establishment) (DPO), Araria.
7. The Block Education Officer (B.E.O.), Sikti, Araria.
8. Upgraded Middle School, Bauka Uttar, P.O. - Aamgachhi, Block & P.S. - Sikti, District - Araria, through its Headmaster.
9. The Headmaster-cum-Drawing & Disbursing Officer (DDO), Upgraded Middle School, Sikti, Araria.
10. Smt. Sheela Kumari, Incharge Headmistress, Upgraded Middle School, Bauka Uttar, P.O. - Aamgachhi, Block & P.S. - Sikti, District - Araria.
11. Sri Ravindra Kumar Bhaskar, Incharge - Headmaster, Upgraded Middle School, Bauka Uttar, P.O. - Aamgachii, Block & P.S. - Sikti, District - Araria.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Vasudeo Ram, Advocate
For the State : Mr. Madav pd. Yadav- GP23

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 09-01-2017

Heard parties.

Petitioner seeks quashing of Annexure 15 which is an office order dated 14.12.2015 issued by the District Education Officer, Araria cancelling the transfer order dated 31.12.2014 of the petitioner in view of the conduct shown by him during the time of inspection.



Sole ground raised by the petitioner is that the order itself discloses that it is punitive in nature and action has been taken in haste without granting reasonable opportunity to the petitioner to show cause. Admittedly, the petitioner, vide order contained in memo no.4739 dated 31.12.2014, was transferred to the Upgraded Middle School Banka North (Skiti) and it appears from the office order that on 01.12.2015, during the surprise inspection, the inspecting team was misbehaved by the petitioner. In above view of the matter, complaint was made by the Block Education Officer and on that complaint the District Education Officer had cancelled the transfer order dated 31.12.2014 which was the order passed by the District Education Establishment Committee. Now, a stand is being taken that there is no sanctioned post of Graduate Trained Teacher in the aforesaid school. This submission is not at all acceptable at this stage as the petitioner remained there for one year and cause of cancelling the transfer is apparent from the impugned order itself which appears to be punitive in nature. It is also admitted position that the same has been passed without granting reasonable opportunity to the petitioner.

Accordingly, in my considered view, the order impugned cannot survive and is quashed and set aside.

However, it is made clear that if the petitioner has not conducted properly and misbehaved with the officials then this order



would not come in way of the competent authority to take proper action in accordance with law.

Since the order of cancellation of transfer has been set aside, the petitioner would be entitled for payment of arrears as well as current salary.

This order would also not come in way of the competent authority in passing any order of transfer of the petitioner in accordance with law, if that is required in administrative exigency or in public interest.

This disposes of the writ petition.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.02.2017
Transmission Date	NA

