

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18291 of 2016

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Rajendra Kumar S/o Ravi Chand Mandal Resident of Village- Majgama, P.S.
Araria, District Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Director Primary Education, New Secretariat, Patna.
2. The District Education Officer, Araria.
3. The Block Development Officer Cum Secretary Block Teachers Employment Committee Araria.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Awadhesh Kumar Mishra, Advocate
For the State : Mr. Madhav Prasad Yadav, GP 23 with
Mr. Arvind Kumar, AC to GP 23

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 11-04-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has moved the Court for quashing the Memo No. 75 dated 27.01.2016 passed by the Block Development Officer-cum-Secretary, Block Teachers Employment Committee by which he has been transferred from upgraded Middle School, Majgama Balak to Upgraded Middle School, Lahana Kamat Tol.

3. Learned counsel for the petitioner submitted that such transfer is beyond jurisdiction as it has not been done following the



due procedure prescribed for such transfer and also that no reason has been given for such transfer. Learned counsel further submitted that even the copy of the order was not served on the petitioner and he kept working at the place of his original posting and when the authorities became aware that he was moving the High Court, he has been shown to have been relieved from an earlier date. Learned counsel submitted that in the counter affidavit, certain allegations have been made against the petitioner relating to pendency of a criminal case but the same not having been taken as a ground in the transfer order, the order impugned cannot be sustained. Learned counsel further submitted that the transfer has been made at the behest of the wife of his cousin brother who was having inimical terms with him and a civil dispute is pending between the parties before the Court of Munsif at Araria. Learned counsel submitted that the complaint leading to transfer of the petitioner itself is clearly a forged document for the reason that one person who is said to have been signed is already dead whereas another person who has signed, is illiterate and can only put his thumb impression. He concluded his arguments by submitting that in the school where he has been transferred, there are more teachers than students and, thus, the said transfer is clearly without application of mind, *mala fide*, and fit to be interfered with.



4. Learned counsel for the State submitted that the writ petitioner has not disclosed proper facts, inasmuch as, the order impugned is not a single order but rather a chain order concerning five persons, including the petitioner, and thus, non-serving of the order only on one individual in the chain cannot be accepted as others have neither moved against such order nor is there any objection raised with regard to the same. Learned counsel further submitted that the order impugned itself refers to two communications from the District Programme Officer (Establishment), Araria based on which the transfer order has been issued and, thus, non-production of the same before the Court indicates that there were good and valid grounds for transfer of the petitioner. Learned counsel submitted that even the jurisdiction relating to the authority which has transferred the petitioner cannot be questioned for the reason that the Teachers Employment Committee has taken decision which is the competent body and the Block Development Officer, who is the Secretary of such body, has issued order which is also in conformity with the relevant Rules. Learned counsel submitted that the character of a person is of vital importance, especially for the post of teacher where young students and impressionable minds are to be moulded for turning them into future good citizens of the country. Learned counsel submitted that the petitioner has also not approached the



Court in time as there is a gap of almost 11 months from the date of transfer and the petitioner filing the writ petition.

5. Having considered the rival contentions, the Court does not find any merit in the present writ petition. The petitioner having been transferred in January, 2016 and having waited for 11 months to approach this Court, in a matter relating to transfer, itself would render the writ petition not fit to be entertained on the ground of delay and laches. Moreover, the petitioner becoming a Prakhanda Teacher on the basis of change of Rules, having been initially appointed as Shiksha Mitra in the year 2004, is governed by the relevant Rules which provide for the dispute to be raised before the District Teachers Employment Appellate Authority of the concerned district. Thus, his remedy clearly lay in moving such Appellate Authority. Moreover, the Court finds substance in the contentions of learned counsel for the State that in the absence of two letters referred to in the order of transfer which is impugned herein, of the District Programme Officer, (Establishment), Araria, not being brought on record, the Court does not find any occasion to consider whether the reasons are sufficient and since the transfer can be made pursuant to a direction of the Authorized Officer and him having sent two communications which are not on record, it cannot be said that the order impugned is beyond jurisdiction. Moreover, on a query of the



Court on the contention of learned counsel for the petitioner that he was working on his post in the original school and only when it became known that he would be moving the High Court he was relieved from an earlier date, whether he had been paid his salary, learned counsel for the petitioner is not in a position to answer. This further indicates that the petitioner was waiting for some fortuitous condition or was attempting to manage the situation as he has also produced medical certificate explaining three months of his absence on the ground of some ailment. Thus, in the absence of materials to consider whether the grounds taken for transfer of the petitioner are correct and further taking into note the fact that there are serious criminal charges against him, this Court, in its extraordinary prerogative writ jurisdiction under Article 226 of the Constitution of India, is not inclined to interfere in the matter.

6. Accordingly, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J)

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