

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1677 of 2010

=====

SUDHIR KUMAR CHOUDHARY S/O LATE BABU SAHEB
CHOUDHARY R/O VILL.- GANDAUL, P.S.- JALAI, DISTT.- SAHARSA,
PRESENTLY POSTED AS IN-CHARGE, HEADMASTER MIDDLE
SCHOOL GANDAUL, BLOCK- MAHISHI, DISTT.- SAHARSA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR THROUGH THE PRINCIPAL SECRETARY
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT,
GOVERNMENT OF BIHAR, PATNA
2. THE DIRECTOR null DEPARTMENT OF PRIMARY EDUCATION,
GOVERNMENT OF BIHAR, PATNA
3. THE REGIONAL DEPUTY DIRECTOR OF EDUCATION, KOSHI
DIVISION, SAHARSA
4. THE DISTRICT SUPERINTENDENT OF EDUCATION, SAHARSA
5. THE AREA EDUCATION OFFICER, SIMRI BAKHATIYARPUR,
SAHARSA
6. THE BLOCK EDUCATION OFFICER, MAHISHI, SAHARSA
7. GANGA PRASAD RAM, ASSISTANT TEACHER MIDDLE SCHOOL,
GANDAUL, BLOCK- MAHISHI, DISTT.- SAHARSA

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Pramod Mishra, Advocate
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-09-2017

This appeal under Clause X of the Letters Patent
was filed on 12.10.2010 and exception was sought to an order
dated 8.9.2010 passed in C.W.J.C. No.12436 of 2010. Notices
were issued on 25.7.2011 and the order of the Writ Court was
stayed by a Division Bench of this Court on 25.7.2011. Thereafter,



on account of default committed in issuance of notice to the respondents, the matter has been kept pending and the defects pointed out by the office have not been rectified even though more than seven years have passed.

Taking note of all the circumstances, we have gone through the material on merit and find that the writ petition was filed challenging an order, Annexure 1 dated 2.7.2009, in the matter of posting of respondent No.7 as In-charge Head Master to the School in question, it was the case of the petitioner that when he was a Senior Assistant Teacher, posting of a junior as the In-charge Head Master was not correct. The Writ Court refused to interfere into the matter by holding that it is a matter of transfer stop gap arrangement for appointing an In-charge Head Master and no case for interference is made out. However, in this appeal, while issuing notice the order of the Writ Court was stayed.

That being so, the order in question has not been given effect to for a period of six years and with the change in circumstances, the order would have outlived its utility as the entire scenario would have changed and now, after more than seven years, no interference into the matter is called for.

As the order impugned has not been given effect to for more than seven years, now interest of justice would be met in



case the appeal is allowed, the impugned order quashed and liberty granted to the State Government to proceed afresh in accordance with law in the matter of posting and transfer of the Head Master of the School in question.

Accordingly, the appeal is allowed, the impugned order quashed and liberty granted to the State Government to proceed afresh in accordance with law in the matter of posting and transfer of the Head Master of the School in question.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	18.9.2017
Transmission Date	

