

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 10244 of 2016

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Vinod Kumar son of Sri Rajendra Prasad Verma, resident of Mohalla-Garbhusthan, Nayatola Purani Bazar, Lakhisarai, District- Lakhisarai at present posted as Incharge Teacher Uttarkramit Middle School Dhiba, P.S.-Dhiba, District- Jamui.

.... Petitioner

Versus

1. The State of Bihar
2. The Director, Primary Education, New Secretariat, Patna.
3. District Magistrate, Jamui, District Jamui.
4. District Education Officer, Jamui, District- Jamui.
5. District Programme Officer, Jhajha, Jamui District- Jamui.
6. Block Education Officer Jhajha, District- Jamui.
7. Block Development Officer cum Executive Officer, Jhajha, District- Jamui.
8. Sachin Kumar Bhartee, Incharge Teacher, Uttkramit Middle School Dhiba, P.S. Dhiba District- Jamui

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Indu Bhushan Prasad

For the Respondent/s : Mr. AC to A.G.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

8 07-09-2017 Heard learned counsel for the petitioner as well as learned counsel appearing for the State.

Petitioner has challenged the order dated 05.12.2015 passed by the Executive Officer, Panchayat Samiti cum Member Secretary, Prakhand Teacher Employment Unit, Jhajha by which he has been transferred from Upgraded Middle School, Dhibha to Upgraded Middle School, Jurpania, Jhajha.

Learned counsel for the petitioner submits that petitioner was appointed as Prakhand Teacher and joined as



Niyojit Teacher at Upgraded Middle School, Dhibha, Jhajha on 20.02.2014 and subsequently, he was transferred by the above stated order dated 05.12.2015 to another school as stated above.

Learned counsel for the petitioner referred Rule 3. of Bihar Panchayat Prarambhik Shikshak (Niyojan Ewam Sewa Shart) Niyamawali, 2012 and submits that no Panchayat and Prakhanda Prarambhik Teacher can be transferred within three years of his joining but in the present case, petitioner has been transferred within one year and ten months of his joining.

On the other hand, learned counsel appearing for the State refutes the above stated submissions and submits that Clause (i) of Rule 3. of the aforesaid Niyamawali relates to the teachers who seek their transfer and so far as Clause (iv) of Rule 3. of aforesaid Niyamawali is concerned, any teacher can be transferred on administrative ground. He further submits that in the present case, a lady teacher had levelled certain wild allegations against the petitioner and in enquiry the allegations were found correct and thereafter on the administrative ground the petitioner was transferred from the above stated Upgraded Middle School, Dhibha and therefore, there is no illegality in the transfer order.

In reply to the aforesaid submission, learned counsel appearing for the petitioner submits that no enquiry was conducted



and as a matter of fact, the so-called complainant had not filed any complaint against the petitioner.

In the present case only question of transfer of the petitioner is involved and so far as genuineness of enquiry report is concerned, this is not the subject matter of the present writ petition and if petitioner is aggrieved by the findings given in the enquiry report, he may file a separate writ petition.

Perusal of Clause (iv) of Rule 3. of above stated Niyamawali goes to show that competent authority may transfer any teacher on the administrative ground and in the present case the competent authority conducted an enquiry in respect of conduct of the petitioner and to maintain peace in the aforesaid school transferred him. Therefore, I do not find any illegality or irregularity in the impugned transfer order.

Accordingly, this writ petition stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

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