

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

**Civil Writ Jurisdiction Case No.17424 of 2017**

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Siyaram Paswan, Son of Sri Banke Paswan, Resident of Village- Karouti Bazar, Ward No.- 03, P.S.- Udakishunganj, District- Madhepura at Presently posted as Assistant Teacher-Cum- Incharge Head Master K.P.N. High Scholl, Pipra, Karouti, Block- Udakishunganj, District- Madhepura.

.... .... Petitioner/s

Versus

1. The State of Bihar, through its Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Government of Bihar, Patna.
3. The Deputy Development Commissioner-cum- Chief Executive Officer of Zila Parishad, Madhepura.
4. The District Education Officer, Madhepura.
5. The District Programme Officer (Establishment) Madhepura.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Alok Kumar Singh, Advocate  
For the Respondent/s : Mr. S.C.MISHRA -SC16

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**

**ORAL JUDGMENT**

**Date: 30-11-2017**

Heard learned counsel for the Petitioner and the State.

2. Counsel for the petitioner submits that the petitioner has been transferred contrary to the rule. He submits that post of Maithili Teacher is sanctioned in the school and it appears that on account of politics the petitioner has been ousted from the school and transferred against his wish. Referring to Rule, he submits that in the Rule, a teacher can be transferred only on his option twice in the entire service career. The petitioner has been transferred on his request in the year 2012 and from there he cannot be transferred without his option. From the tenor of different annexures, it appears



that there are certain allegations leveled against this petitioner.

3. Counsel for the State submits that the petitioner has been transferred on administrative ground.

4. Considering the submission advanced by the counsel for the petitioner that the Rule does not permit transfer without the option exercised by the petitioner, the Court is of the view that the petitioner's transfer vide Annexure-6 is contrary to Rule and as such it is not sustainable in the law and the same is quashed. However, the Court cannot ignore the fact that a teacher is supposed to maintain decorum and discipline in and around the school and, as such, the authorities are under obligation to take appropriate action in the event they find lapse on the part of the petitioner. Transfer is not a device of discipline a teacher, if there is any lapse warranting any administrative action, appropriate disciplinary action is permissible and the authority concerned should resort to the same.

5. Under the aforesaid circumstances, liberty shall be available to the respondents to take disciplinary action, if there is any lapse warranting administrative action against the petitioner. Considering the aforesaid peculiar facts of the case, the respondents are directed to post regular headmaster in the school to obviate any further complication by the petitioner exercising the power of incharge headmaster.



6. With the aforesaid observations, this application stands disposed of.

**(Anil Kumar Upadhyay, J)**

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