

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.806 of 2017

In
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.

.... Appellant

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.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Awadhesh Kumar Mishra, Advocate
For the State : Mr. Ashutosh Ranjan Pandey-AAG-15
Mr. Amarendra Kumar, AC to AAG-15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

**HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY**

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

6 29-11-2017 Having heard learned counsel for the petitioner, appellant herein, we find that even though the learned Writ Court has not interfered into the merits of the matter and has relegated the petitioner to the statutory remedy of appeal available, the transfer of the petitioner is alleged to be in contravention to the statutory Rule, namely, Rule-15 (Anga) of Bihar Panchayat Primary Teacher Employment and Service Condition Rule 2012 wherein Clause-15(d) pertaining to transfer prohibits transfer within a period of three years and that too restricts transfer during the whole service career of an employee to only two times.

It is the grievance of the petitioner that this statutory Rule



has been violated in transferring the petitioner.

That being so, it is appropriate to direct the Director, Primary Education to consider the case of the petitioner in the backdrop of the statutory Rule in question and in case, it is found that the statutory Rule has been violated, the Director shall issue necessary orders correcting the order of transfer, else he will pass a reasoned and speaking order as to why he justifies the order.

Be that as it may, in view of the reasons indicated hereinabove, we direct that the Director, Primary Education, on the petitioner filing a detailed representation along with certified copy of this order, shall consider the claim of the petitioner and pass an appropriate speaking order with regard to issue in question within a period of 30 days of its presentation. However, while doing so, the Director shall not be influenced or carried away by the order passed on 11.4.2017 in C.W.J.C. No.18291 of 2016 dismissing the writ petition of the petitioner and shall take an independent decision based on the provisions of the relevant rules and the claim of the petitioner.

With the aforesaid, this appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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