

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12047 of 2017

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1. Dr. Om Prakash, Son of Late Lalit Paswan, Permanent resident of Taripar, P.S.- Bikram, District- Patna.
 2. Md. Sultan Ahmad, Son of Late Jamil Ahmad, Permanent resident of Harun Nagar, Road No.11, Sector-2, P.S.- Phulwarisharif, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education, Bihar, Patna.
3. The Secretary, Education, Bihar, Patna.
4. The Director Administration, Education Department, Bihar, Patna.
5. The Regional Deputy Director, Education, Bhojpur, Ara.
6. The District Magistrate, Bhojpur, Ara.
7. The District Education Officer, Bhojpur, Ara.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Advocate
For the State : Mr. Madhaw Prasad Yadav, GP-23

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 06-10-2017

Heard learned counsel for the petitioners and State.

2. The petitioners have moved the Court for the following reliefs:

“(i) For issuance of appropriate writ/order/direction for quashing the memo no. 3961 dated 29/07/2017 (Annexure-5) issued under signature of District Education Officer, Bhojpur,



which has been issued in complete disregard of Notification of Education Department, Bihar contained in Notification No. 2/M10-94/M285 dated 02/03/2017 and by which the present petitioners have been assigned work of junior officers without completing the mandatory tenure of two years.

(ii) For directing the respondents not to disturb the petitioners work assignment for period of 2 years as per Notification No. 2/M10-94/M1485 dated 02/03/2017 of Education Department, Bihar.

(iii) For staying the operation of memo no. 3961 dated 29/07/2017 (Annexure-5) till the disposal of the writ petition.

(iv) For issuance of direction for any other relief or reliefs for which the petitioner is entitled for.”

3. In essence, the grievance of the petitioners is that though they had been allotted a particular work by the respondent no. 7 by order dated 28.03.2016 but thereafter again on 29.07.2017 the work allotted to them and three others has been re-distributed.

4. Learned counsel for the petitioners submitted that as per the guidelines issued by the Department of Education contained in Memo No. 285 dated 02.03.2017, though it is the jurisdiction of the respondent no. 7 to allot the work to the petitioners, who are District Programme Officers, but once the same has been done, there cannot be any re-distribution before two years and if it is felt necessary, it



was mandatory to take prior permission of the Department. Learned counsel submitted that the same not having been complied with, the subsequent re-allotment/reallocation of work among the petitioners and three other District Programme Officers was impermissible.

5. Learned counsel for the State submitted that the reason for such re-allotment was that the petitioners were found to be more experienced and the others were not doing the job properly and thus, for better functioning, the same has been done. It was further submitted that the respondent no. 7 has written to the Department for approval. However, he was not in a position to justify as to how the respondent no. 7 has made the re-allotment/reallocation of work when the circular of the State Government dated 02.03.2017 specifically and categorically stipulates that on administrative ground such change of work can be made within two years also but for the same prior approval of the Department was necessary.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds the order passed by the respondent no. 7 dated 29.07.2017 to be unsustainable. Accordingly, the same is set aside.

7. It is clarified that since re-allocation of work only among the petitioners has been interfered with, the respondent no. 7 shall be free to distribute the remaining work among the other three



new District Programme Officers, either at this stage itself or after waiting for approval from the Department with regard to the petitioners also.

8. The respondent no. 7 shall be free to move the Department seeking permission for modifying/changing/re-allocating the work among the petitioners and other District Programme Officers in the district of Bhojpur but only upon the approval received from the Department, such changes shall be made.

9. The writ petition stands allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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