

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 17626 of 2016

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Ramkripal Roy, Son of Sri Sitaram Roy, Resident of village + P.O. Naya Gaon, P.S. Parbatta, District - Khagaria at Present Assistant Teacher, Girls Primary School, Dantola under Block + District – Khagaria.

.... Petitioner.

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Education, Government of Bihar, Vikash Bhawan, Patna.
3. The Director, Primary Education, Government of Bihar, Vikash Bhawan, Patna
4. The District Education Officer, Khagaria.
5. The District Programme officer (Establishment), Khagaria.
6. The Block Education officer, Khagaria.
7. The Head Mistress, Girls Middle School, Dantola, Khagaria.

.... Respondents.

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Appearance :

For the Petitioner : Mr. Bishnu Kant Dubey, Adv.

For the Respondents: Mr. Madanjeet Singh-GP20

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 30-01-2017

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved vide Annexure-11 which is an order dated 19.09.2016 passed by the District Education Officer, Khagaria by which he has been transferred along with other persons back to his original place of posting as the petitioner has opted for transfer on several grounds and he has clearly stated that he is one of the 34540 category teacher. Thereafter, he was transferred from Middle School, Dukhantola Gogari, to Girls



Primary Middle School, Dantola, Khagaria. He was relieved vide Annexure-5. He joined and started getting salary for about three months. Thereafter, Annexure-11 came to be issued by the Department that the transfers were made by mistake and, therefore, all the teachers are being reverted back to their original place of posting.

Counter affidavit has been filed on behalf of the Respondent No. 5.

It is stated that, vide Annexure-2, the State Government had directed the competent authority to take a decision till 31.01.2015 for transfer only on the option of the teachers within the same district but the decision has been taken after that date, i.e., on 23.06.2016.

In my view, if there is already some provision under the Rule for transfer within the district at the option of the teachers and on such ground as the petitioner has already applied vide Annexure-4 and was posted accordingly and is working and receiving his salary there, only for the reason the order could not be passed till 31.01.2015, reverting back to him at his original place of posting would not serve any purpose as the petitioner. Admittedly, petitioner's transfer would be covered by Rule 3(Kha) of Bihar Rajya Rajkiyakrit Prarambhi Shikshak (Sthananttran)



Niyamvali, 2006. It lays down in clear terms that teachers would be granted option for transfer at place of their choice twice in service but there should be a gap of five years between first and second transfer option.

In above view of the matter, since the petitioner had applied under the Rule and was transferred accordingly, only for the reason that it could not be done till 05.01.2015 for which the petitioner is not at fault, reverting back to his earlier place was not at all required. Accordingly, Annexure-11, so far it concerns the petitioner, is quashed and set aside.

This writ petition stands allowed.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.03.2017
Transmission Date	NA

