

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1672 of 2018

Vishwanath Prasad, Son of Shri Kailu Prasad, resident of village- Tulapati, P.O.- Parsa, P.S.- Kishanpur, Via Pipra Bazar, District- Supaul, presently posted as Headmaster, Utkramit Middle School, Shripur, Koriyani, Village + P.O.- Sukhasan, P.S.- Kishanpur, District- Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The Regional Deputy Director of Education, Koshi Division, Saharsa.
5. The District Magistrate, Supaul.
6. The District Education Officer, Supaul.
7. The District Programme Officer (Establishment), Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pramod Mishra, Advocate
For the Respondent/s	:	Mr. Smt. Shilpa Singh- Ga12
		Ms. Neetu Ghay, A.C. to G.A.-12

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 05-02-2018 Heard learned counsel for the petitioner and the counsel appearing on behalf of the State.

Learned counsel for the petitioner has submitted that order of transfer in the instant case is contrary to the rule and it is also colourable exercise of power.

Referring to Annexure-3 he submits that the Director, Secondary Primary Education has already communicated the District Programme Officer (Establishment), Supaul that in the matter where necessary prior approval of the directorate is required must be obtained from the Directorate but contrary to



Annexure-3 in the present case the respondent District Programme Officer (Establishment), Supaul has passed order dated 5.10.2017(Annexure-4). If law requires prior approval, the respondents are required to follow the procedural requirement while taking decision and more so in view of the Annexure-3 it appears that order 5.10.2017 was passed in breach of Annexure-3. However, in matters of transfer, the writ petitioner is required to first obey the order of transfer contained in Annexure-5 dated 5.10.2017 and after carrying the order of transfer the petitioner shall be at liberty to raise the issue of legality in the order contained in Annexure-5 by way of filing exhaustive representation before the Director, Primary Education.

In case, representation is filed by the petitioner after joining within a period of 15 days from the date of joining, the Director, Primary Education will examine the representation of the petitioner and pass reasoned and speaking order in the light of relevant circulars including guidelines issued by the Director, Primary Education contained in Annexure-3 and in case the Director finds infirmity in the order contained in Annexure-5 he shall pass necessary corrective order within a reasonable time preferably within a period of two months from the date of filing



of such representation.

With the aforesaid, the writ petition stands disposed of.

Ravi/-

(Anil Kumar Upadhyay, J)

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