

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18452 of 2017

Dr. Bharati Jha, Wife of Shyamanand Jha, Resident of Village+P.S.- Mahishi,
District- Saharsa presently residing in Mohalla- Sahi Colony Hajipur, P.S.-
Hajipur, Sadar, Dist- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Bihar, Patna.
2. The Director, Higher Secondary Education, Bihar, Patna.
3. The District Magistrate, Vaishali at Hajipur.
4. The Deputy Development Commissioner cum-Chief Executive Officer Zila Parishad Vaishali at Hajipur.
5. The District Education Officer, Vaishali at Hajipur. null null
6. The District Programme Officer (Establishment) Vaishali at Hajipur.
7. The Incharge Headmaster Project Girls Higher Secondary School Jalalpur Lalganj, Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan Singh, Advocate
For the State	:	Mr. Ram Vinay Pd. Singh, AC to GA-12
For Dist. Board	:	Mr. S.N.Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 28-02-2018 Learned counsel for the Zila Pareishad has filed the counter affidavit. Let the same be taken on record.

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

From the facts of this case it is evident that the petitioner has not made any request for transfer. Rule provides that transfer only twice in the whole service and that too only on the request of the incumbent can be made. In the present case when the petitioner has not made any request for transfer, the action of the respondents in transferring the petitioner on the



ground of administrative reason does not satisfy the requirement under the rules. If the employer is helpless in the matter of discipline and control, transfer is not a device to discipline the employee. Since the rule does not provide for transfer unless there is request of the teacher concerned, the court is left with no option but to quash the order of transfer contained in Annexures 9 and 10. It is accordingly quashed. The respondents are not denuded from the power of disciplinary action if the petitioner is behaving in a manner which is not conducive for discipline in school in question.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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