

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.286 of 2018

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Afsar Alam, Son of Afaque Alam, Resident of Village-Chihania, P.O.-
Bagnagar, P.S. mahal gaon District-Araria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Education, Government of Bihar,
Patna
3. The Principal Secretary, Panchayat Raj Department Government of Bihar,
Patna.
4. The Director, primary Education, Government of Bihar, Patna.
5. The District Magistrate, Araria.
6. The District education officer, Araria.
7. The District Programme officer, Eastablishment, Araria.
8. The District Panchayat Raj Officer, Araria.
9. The Block-Education Officer, Jokihat Block, Araria
10. Bibi Kaushar Parween, Wife of Gulam Sarwar, Resident of Village-Kakora,
P.O.-Bagnagar, P.S.-Mahal Gaon, District-Araria.
11. Md. Parwez Alam, Son of Md. Ramjani, Resident of Village-Kakora, P.O.-
Bagnagar, P.S.Mahal Gaon, District-Araria, Presently Working as Mukhiya,
Bagnagar Panchayat, Jokihat Block, District-Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Singh, Advocate Mr. Kanhaiya Pandey, Advocate Md. Azimuddin, Advocate Mr. Ranvijay Singh, Advocate
For the Respondent/s	:	Mr. Kumar Ravish, Advocate Mr. Kashyap Kaushal, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 04-07-2018

Heard learned counsel for the petitioner and the counsel

appearing on behalf of the State and the private respondents.

2.Learned counsel for the petitioner submits that the office
order transferring the petitioner contained in Annexure-9 is totally
without jurisdiction. Referring to the Rule he submits that under the Rule



only Director can issue direction on the recommendation of District Education Officer.

3.From perusal of Annexure-9, it appears that District Education Officer has usurped the power of the Director and issued order of transfer, saying that the order of posting of the petitioner dated 18.9.2017 is modified. Once the order of posting was given effect to, the District Education Officer, Araria has no jurisdiction to modify the order of posting.

4.In the aforesaid circumstances, the Court is of the view that the order passed by the District Education Officer, Araria is totally without jurisdiction as Rule does not permit the District Education Officer to pass any order of transfer.

5.Learned counsel appearing on behalf of the State has not been able to dispute the legal position that only Director has the jurisdiction to pass order of transfer. The private respondent has also not been able to demonstrate that law permits the District Education Officer to pass order of transfer.

6.In view of the above, the Court is of the considered view that the order contained in Annexure-9 is totally without jurisdiction and such order cannot sustain.

7.Accordingly, Annexure-9 is quashed. The respondent no.9 is directed to restore the petitioner to the school where he was posted



pursuant to Annexure-1 dated 18.9.2017 within a maximum period of 15 days from the date of receipt/production of a copy of this order.

8.With the aforesaid, the writ application stands allowed.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.07.2018
Transmission Date	

