

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5025 of 2018

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Satyendra Kumar Singh, S/o Chandrika Singh, Resident of Village-
Abhirajpur Bairiya, P.S.- Piprahi, District- Sheohar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Secondary Education, Bihar, Patna.
4. The District Magistrate, Sheohar.
5. The District Education Officer, Sheohar.
6. The District Programme Officer (Establishment), Sheohar.
7. The District Programme Officer, Plan & Accounts, Sheohar.
8. The Block Education Officer, Sheohar, District- Sheohar.
9. The Block Education Officer, Dumri, District- Sheohar.
10. The Block Education Officer, Piprahi, District- Sheohar.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Sunil Kumar Verma, Advocate
For the Respondents	:	Smt. Shilpa Singh- GA12 Ms. Abhanjali, AC to GA 12

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 06-12-2018 Heard learned Counsel for the petitioner and the

learned Counsels for the respondent State.

The petitioner has impugned office order dated
25.1.2018 issued by the District Programme Officer
(Establishment), Sheohar. He is aggrieved by his transfer from
his present place of posting as Headmaster in Sonaul Sultan to
the Middle School at Purnahiya in the district of Sheohar.

Learned Counsel for the petitioner submits that the
transfer in question is punitive as it forms part of a composite
order, whereby he has been relieved from suspension pursuant



to conclusion of a departmental proceeding. It is his submission that the transfer is in colourable exercise of power. He also submits that at the present place of posting in Sonaul he was enjoying the powers of Drawing and Disbursing Officer, which is there in one amongst many other schools in the block. He submits that at the transferred placed of posting there is no such power of Drawing and Disbursing Officer. Putting him to such a transfer place takes away the privilege of being a Drawing and Disbursing Officer and that being senior most Headmaser of the block this privilege should not have been withdrawn from him. He also relied upon Clause 3(ii) of the Bihar state taken Over Elementary school teachers Transfer and disciplinary action rules 1994. By referring to the same he submits that the transfer and postings are generally to be done during May – June and November – December every year, whereas the transfer order impugned has been done in the month of January. The last leg of his submission is that the transfer is in violation of Bihar Non-government secondary School (Management and Control) regulation 1981. Referring to Clause 12 of the same, he submits that the transfer could have been done in certain circumstances which are enumerated therein and, as such, the order of transfer is also violation of the said circular of the Government of Bihar.



The submission of the Counsel for the petitioner in so far as the transfer order being punitive appears to be wholly unfounded. The office order clearly records that he has been exonerated of the charges against him and his suspension has been revoked. The fact that his transfer is a part of the same order cannot be made basis to come to the conclusion that the transfer is punitive in nature. There is no rule or circular or any provision which vests the right in the senior most teacher in a Block to be posted as Headmaster in a School where the Principal is vested with drawing and disbursing power. The petitioner therefore cannot claim to be posted as a Headmaster in a school where drawing and disbursing powers are vested in the Headmaster. Therefore, the submission of the petitioner that he is being denuded of the privilege of the drawing and disbursing cannot enure to his rescue. The Rules of 1994 which is being relied upon speaks of transfer during May-June and November – December. Such period has been specified and notified with the expression “generally”. It is not absolute that the transfer must be done only in May-June and November-December. On that score the order of transfer dated 25.1.2018 cannot be held to be violative of the said Rules of 1994.

In so far as the last leg of petitioner's submission that



the transfer has to be in accordance with Rules of 1983, which has been referred to above, this Court finds no force in the submission. It is established that the transfer is an incident of service unless it has any adverse pecuniary effect or unless he is posted on the post lower than the present, by virtue of his transfer; or it is shown that the transfer is punitive in nature, the same should not be interfered with. Court does not interfere with the transfer order since they are based on administrative exigency of the authority.

The prayer made by the petitioner in the writ petition, therefore does not appear to be enforceable for which any direction can be issued in exercise of jurisdiction under article 226 of the Constitution of India.

The writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J.)

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