

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3567 of 2018

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1. Ranjeet Kumar, Son of Late Bishwanath Prasad, Headmaster, Middle School, Gagour, Ghat Kusumbha, Police Station and District Sheikhpura, resident of Kamishanary Bazar, Post Office , Police Station and District Sheikhpura.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna- 800001.
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna- 800001.
3. The Regional Director of Education, Munger Division, Munger.
4. The Regional Deputy Director of Education, Munger Division, Munger.
5. The District Magistrate, Sheikhpura.
6. The District Programme Officer (Establishment), Sheikhpura.
7. The District Education officer, Sheikhpura.
8. The Block Education Officer, Ghat Kusumba, Sheikhpura, District- Sheikhpura. null null
9. Rajib Nandan Singh, Physical Niyojit Prakhand Teacher, Middle School, Gagour, Police Station Korma, District- Sheikhpura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahendra Prasad Bhartee
For the Respondent/s : Mr. Ashutosh Ranjan Pandey -Aag15

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

3 20-04-2018 Heard learned counsel for the petitioner and counsel appearing on behalf of the State.

On 16-03-2018, the Court granted time to the respondent to file counter affidavit. Neither counter affidavit was filed nor the grievances of the petitioner was redressed.

Petitioner has now filed I.A. No.2733 of 2018, wherein he has mentioned that the petitioner has been harassed by the respondent and purposely transferred in a school where there is no vacancy as the post is



occupied by regular headmasters, namely, Brahmdeo Yadav. At the relevant time, when he was transferred to the middle school, he was not allowed to continue there only in order to extend favour to the Niyojit Shikshak who could not even made in charge headmaster. Learned counsel for the petitioner submits that the petitioner is to retire within a period of 11 months and there is also decision of the State Government not to transfer employee in the last year of service. Since the petitioner is to retire within a period of 11 months the action of the respondent in using the petitioner as shuttle cork and transfer the petitioner from one place to another place is not justified. The decision of transfer appears to be must unreasonable and arbitrary.

Considering the fact that earlier the petitioner has been transferred, where there was clear vacancy as per the statement of the petitioner and the post of headmasters was occupied by Niyojit Shikshak as Incharge and this petitioner was allowed to continue as a headmaster. The action of the respondent is in transferring the petitioner to accommodate Niyojit Shikshak as Incharge is patently illegal and arbitrary. The situation has worsen by the conduct of the respondent as the petitioner in their case was transferred where there is no vacancy of headmaster and regular headmaster is alredy working. In view of the aforesaid circumstances, respondent are directed to reconsider the case of the petitioner's transfer and if it is found that there is regular vacancy of middle school, Gogour the petitioner case should be considered by the respondent for posting at



Middle School, Gagour and in any event the Niyojit Shikshak shall not be allowed to continue as In-charge, Headmasters to prevent joining of this petitioner. In the totality of the facts of this case, the respondents are required to consider the case of posting at a vacant place if the post of Headmaster is occupied by the regular Headmasters at Middle School, Gogour, so that petitioner may after superannuation may receive retrial dues without any disturbance. Entire exercises in this regard should be done by the respondent within a maximum period of 6 weeks from the date of receipt / production of a copy of this order. Earlier order of transfer will not come in the way of respondent in considering the case of petitioner for posting in Middle School, Gogou or in any other school where there is a clear vacancy on the post of headmaster.

The respondents are also directed to ensure payment of entire arrears and current salary within the time frame indicated hereinabove and shall not create any issue of vacancy in the mater of payment of salary, arrears and current salary. They are required to pay the same as they cannot take advantage of their own wrong in posting in a school where there is no vacancy.

With the aforesaid direction, this writ petition as well as I.A. No.2733 of 2018 is disposed of.

Sanjeev/-

(Anil Kumar Upadhyay, J)

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