

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4202 of 2018

In
Civil Writ Jurisdiction Case No.12970 of 2017

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Ranjana Tiwari wife of Dr. Sanjay Tiwari, Resident of Mohalla-Quarter No. 3/1, KVS Teacher's Colony, Gannipur, Aghoria Bazar, District-Muzaffarpur

... .. Petitioner

Versus

1. The State of Bihar through The Principal Secretary, H R D, Bihar, Patna.
2. Shri Santosh Kumar Mall, Commissioner (Headquarters), Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016
3. Shri Santosh Kumar N., The Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Patna.
4. Shri Sardar Singh Chauhan, Assistant Commissioner Establishment, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr.Abhinav Srivastava, Advocate
For the Opposite Party/s : Mr.Ashutosh Ranjan Pandey - AAG 15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 13-02-2019 Heard Sri Abhinav Srivastava, learned counsel for the applicant.

It is urged that after the judgment dated 02.11.2017 passed in C.W.J.C. No. 12970 of 2017 and analogous cases with the observation contained therein, the issuance of the memorandum dated 20.09.2018 clearly amounts to violation of the said observations made in the judgment of this Court. For this, Sri Srivastava submits that Clause 7(e) is a provision which indicates that the transfer is made if the employee's stay has become



prejudicial to the interest of the organization. The transfer in the year 2016 of the applicant was made under the said provision and it is for this reason that the Division Bench was pleased to observe that nothing adverse shall be read against the applicant or treated to be a stigma cast, so as to utilize the same against the petitioner.

In this background, it is urged that the memorandum dated 20th September, 2018 in effect has avoided to abide by the aforesaid direction of the High Court and has cancelled the transfer order dated 14th September, 2018.

We are of the opinion that this is not a sufficient cause of action and not exactly a matter to be dealt into for disobedience under the Contempt of Courts Act, 1971. The same may be a ground for challenging the memorandum dated 20th September, 2018 and therefore, we consigned this application without prejudice to the rights of the applicant to question the correctness or otherwise of the said memorandum before the appropriate forum in accordance with law and if questioned the disposal of this contempt application shall not be a legal impediment.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

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