

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19534 of 2019

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Ram Chandra Prasad Yadav Son of late Billu Ray, Resident of Village-
Chandi Rajwara, P.S. Bela, P.O. Chandi Rajwara, Block- Parihar, District-
Sitamarhi at Present Posted as Assistant Teacher, Laxmi Higher Secondary
School, Sitamarhi, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The Secondary, Education Department, Bihar, Patna.
4. The Director, Primary Education, Education Department, Bihar, Patna.
5. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
6. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
7. The District Education Officer, District- Sitamarhi.
8. The District Programme Officer, Establishment, District- Sheohar.
9. The Head Master, Laxmi Higher Secondary School, Sitamarhi, District-
Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nalin Kumar, Advocate
For the Respondent/s	:	Mr. Shankar Kr Thakur, G.P. 27
For Intervenor	:	Mr. Mahendra Pratap, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 23-09-2019 Heard learned counsel for the petitioner, learned
counsel for the respondent State as well as the counsel
appearing for Intervenor.

Learned counsel for the petitioner would submit that
the action of the respondent in cancelling the already
implemented transfer is arbitrary.

Learned counsel appearing on behalf of the State
would submit that the transfers are regulated by the notification



of the State Government dated 05.08.2006. He submits that although there are many factors involved in the present application, but ultimately, it is the issue as to jurisdiction to cancel the transfer is to be decided in the present application. He fairly admitted that the appropriate authority in the matter of taking decision is the Divisional Commissioner in terms of 'Annexure 7'.

Learned counsel appearing on behalf of the Intervenor would submit that the petitioner has obtained the order of mutual transfer on the basis of suppression of material facts. Be that as it may, only relevant issue in the present application is the issue of the order of cancellation of transfer. The notification issued by the State Government dated 05.08.2006 is very clear on the point of taking appropriate decision at the level of Divisional Commissioner and once the transfer order was given effect to, the Divisional Commissioner is only vested with the power to take appropriate decision. The Regional Deputy Director of Education has no jurisdiction to pass any order on the transfer order which has already been implemented.

Considering the rival submission of the parties, and the scheme of notification dated 05.08.2006, the present writ application stands allowed and 'Annexure 6' is quashed. If any



person aggrieved by the order of transfer, he may, if so advised, approach the Divisional Commissioner who can take appropriate decision in terms of the notification dated 05.08.2006 i.e. 'Annexure 7', after giving opportunity of hearing to all the parties within a period of 60 days from the date of filing such representation.

With the aforesaid, the present writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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