

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21557 of 2019

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Pinki Kumari D/O Upendra Prasad Gupta, R/o- Ward 12, Samsa, P.O- Samsa,
P.S.- Mansurchak, District- Begusarai, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Department, Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Education Officer, Araria.
4. The District Program Officer (Est.), Araria.
5. The District Education Officer, Begusarai.
6. The District Program Officer (Est.), Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Samir Kumar
For the Respondent/s : Smt. Shilpa Singh, G.A. 12
Ms. Abhanjali, A.C. to G.A.12

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 02-12-2019 Heard both sides.

The petitioner filed this writ petition for the following
reliefs:

I. For issuance of writ/writs, order/orders in the nature
of certiorari setting aside the effect of Sub Rule (I) of Sub Rule
(e) of Rule 15 of Bihar Panchayat Elementary Teachers
(Employment and Service Condition) Rules, 2012 to the extent
it prohibits transfer of the teacher (petitioner herein) outside of
employment unit in any circumstances being against the public
policy and also discriminating contractual teachers with Govt.



teachers in similar work assignment.

II. For issuance of writ/writs, order/orders in the nature of mandamus directing the respondents to consider the application dated 20.02.2019 of the petitioner as submitted before respondent No.2 and concerned Minister on 21.02.2019 for her transfer outside of her employment unit within 30 days under the provisions of Sub Rule (4) of Rule 5 of Bihar Govt. Primary School Teachers-Transfer, Disciplinary Actions and Promotion Rules, 2018 as applicable to Govt. Teachers performing jobs of similar nature till the date of finalization of draft of fresh service conditions as proposed and pending before the committee since 01.08.2015 as constituted by the respondent No.1.

III. For issuance of writ/writs, order/orders in the nature of mandamus directing the concerned respondents to take necessary initiative within a period of six months in framing the fresh Rules providing inter district transfer of contractual teachers(outside of employment unit).

IV. For issuance of writ/order in the nature of mandamus directing the respondents to consider the application for inter district transfer of the contractual teachers to be governed by existing service conditions of regular Govt.



primary teacher under Sub Rule (4) of Rule 5 of Bihar Govt. Primary School Teachers- Transfer, Disciplinary Actions and Promotion Rules, 2018 till fresh Service Rules for contractual teachers has been framed by the Respondent-State.

V. For issuance of writ/writs, order/orders directing the concerned respondent authorities to for any other relief to be granted to the petitioner as deemed fit and proper in the interest of justice.

Learned counsel for the petitioner submits that the petitioner was appointed and joined as Shiksha Mitra on 27.05.2005 in her home Gram Panchayat, Samsa and posted at Middle School, Samsa, Block-Mansurchak, District-Begusarai. Since then she has been working in Middle School, Samsa. The petitioner was later on designated as Block Teacher in the same school after coming into effect of Bihar Panchayat Elementary Teachers (Employment and Service Condition) Rules, 2006. The petitioner got married with one Mr. Sanjay Kumar Rai on 27.11.2009 and got two children. Petitioner filed petition before the authority to transfer her from the school to another school where her husband is working and her representation before the Director, Education is still pending. Learned counsel for the petitioner submits that Government has formulated rules for



transfer of regular teachers but there is no rule for transfer of Niyojit Teachers to one unit to another unit and, therefore, this is violation of rule of equality and the Government should consider the rule to transfer Niyojit Teachers from one unit to another unit.

Having considered the submissions and on perusal of the record, I find that petitioner has accepted her joining as Block Teacher. Bihar Panchayat Elementary Teachers (Employment and Service Condition) Rules, 2006 does not provide any provision for transfer of Niyojit Teachers to another school. It is upto the Government to frame rules for transfer of Niyojit Teachers from one unit to another unit. Thus, I think that this Court cannot direct the authority to transfer the petitioner from one unit to another unit. Accordingly, I do not find any merit in this writ petition. Thus, this writ petition is dismissed.

(Prabhat Kumar Jha, J)

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