

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21015 of 2019

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Md. Rashid Imam Khan, Son of Md. Alamgir Khan, Resident of Village + Post Office- Bantara Said, Police Station- Deokund, District-Aurangabad. At present posted and working as a Headmaster in Govt. Middle School Ker, Anchal- Konch, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary-Cum-the Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The Regional Deputy Director of Education, Magadh Division, Gaya.
5. The District Education Officer-Cum-the Chairman, District Elementary Teachers Promotion and Transfer Committee, Gaya.
6. The District Education Officer, Gaya.
7. The District Programme Officer(Establishment)-cum-the Member Secretary, District Elementary Teachers Promotion and Transfer Committee, Gaya.
8. The District Programme Officer (Establishment), Gaya.
9. The Block Education Officer, Konch, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner : Mr.Umesh Kumar Mishra, Advocate
For the Respondents : Mr.Jitendra Kumar Roy-1, S.C.-13

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT

Date : 18-11-2019

Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the State.

2. The petitioner in the present writ application prays for the following reliefs :

“(I) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent-authorities i.e. the District Teachers Promotion and Transfer



Committee, Gaya headed by the District Education Officer-cum-the Chairman, District Elementary Teachers Promotion and Transfer Committee, Gaya and the District Programme Officer (Establishment)-Cum-the Member Secretary, District Elementary Teachers Promotion and Transfer Committee, Gaya to transfer the petitioner as per Rule 3 read with Rule 5(Kha) of Bihar Nationalized Elementary Teacher Transfer (Disciplinary Action and Promotion) Rules, 2018, as per the options by him for his transfer i.e. (I) Govt. Middle School Singhara, Anchal-Konch, District-Gaya (II) Govt. Middle School Usas, Anchal-Konch, District-Gaya on the ground that the school in which, the petitioner is presently posted is sixty kilometers away from his house and there is no one to look after his old father aged about 82 years, who is suffering from multiple old age ailments as well as to look after his children and, therefore, he is entitled for his transfer in one of the above mentioned schools.

(II) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to take the decision in favour of the petitioner by transferring the petitioner in any of the following schools i.e. (I) Govt. Middle School Singhara, Anchal-Konch, District-Gaya (II) Govt. Middle School Usas, Anchal-Konch, District-Gaya, as the petitioner is entitled to be transferred.



(III) For issuance of an appropriate writ in the nature of mandamus for commanding/ directing the respondent authorities concerned to consider and redress the genuine grievances of the petitioner for his transfer in one of the aforesaid two schools, as petitioner has narrated all the facts and circumstances, under which, he is entitled to be considered for his transfer in one of the schools against the vacant post of Headmaster.

(IV) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner will be found entitled in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that in the light of the new Rules being Rule 3 read with Rule 5 (Kha) of the Bihar Nationalized Elementary Teacher Transfer (Disciplinary Action and Promotion) Rules, 2018, the petitioner had made an application to the concerned authority for consideration of his case, but till date his application for transfer has not been addressed to by the concerned respondent. He thus submits that appropriate orders may be passed so that his representation may be considered and disposed of in the light of the relevant Rules.

4. Learned counsel for the petitioner has also drawn my attention to the order dated 23.09.2019 passed in C.W.J.C. No.19452 of 2019, whereby this Court had disposed of a similar



prayer in the district of Gaya with regard to the transfer of Teachers. He thus prays for a similar direction and for consideration of his case in accordance with law. Learned counsel for the petitioner submits that the petitioner has already made a representation in this regard, which is pending.

5. Having considered the entire facts and circumstances, this Court directs that in case the petitioner’s representation has not yet been disposed of, let the petitioner approach the District Education Officer, Gaya (Respondent No.6) and the District Programme Officer (Establishment)-Cum-the Member Secretary, District Elementary Teachers Promotion & Transfer Committee, Gaya (Respondent No.7), with a copy of the order and also a fresh representation, which shall be considered in accordance with relevant Rules and disposed of within a period of six weeks from the date of receipt/production of a copy of this order.

6. The application stands disposed of accordingly.

(Anjana Mishra, J)

PNM

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

