

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7898 of 2020

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Bihar Pradesh Bhrastachar Unmulan Samiti Ram Dulari Apartment- 406,
Gola Road, Machhli Talab, Patna through its President Sri Dinesh Kumar
Singh, Male, 47 years son of late Chandrika Prasad Singh, resident of village
Tenduni Manbodh Nagar, Police Station Bikramganj, District Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Director (Administration)-cum- Additional Secretary, Education Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Santosh Kumar Sinha 2, Mr.Uttam Kumar Mishra, Mr.Divya Jyoti, Advocates
For the Respondent/s	:	Mr.Ashutosh Ranjan Pandey, AAG 15

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-09-2020

Petitioner has prayed for the following relief(s):

“That this application in form of Public Interest Litigation is being filed to adjudicate and decide legality and/or illegality of functioning of the Government of Bihar under its Education Department vide issuing orders on 30.06.2020, and, after having been satisfied in case the law requires the same be quashed;

BECAUSE

(i) As to whether the "June-action" of the Government of Bihar in Education Department in transferring, posting and/or authorizing its newly



recruited Programme Officers, who were undergoing probation and training, on the higher and promotional post of District Programme Officer, is in accordance with law, is under constitutional mandate, is recognized by rule/rules, particularly Rules of Executive Business and/or Bihar Education Service Cadre Rules 2014?

(ii) As to whether the contents of the orders dated 30.6.2020 issued by the Director (Admn)-cum-Additional Secretary it is vivid and unambiguous or not that with an intention to defeat the procedure laid down/prescribed under rules and law of the land with respect to transfer-posting in June it has adopted/resorted to an unknown procedure for passing such order which is wholly unconstitutional, ultra virus, void and illegal besides being not sustainable in the eye of law.

(iii) As to whether the Government of Bihar through its Education Department is legally competent under any law/rules and vested with the jurisdiction under it to retain, pick and choose the employee having more than 3 years of service at a place and transfer those who had hardly completed 12 years service period at a place?

(iv) As to whether when there were/are no eligible employee to be promoted to hold the post of District Programme Officer etc., transferring the District Programme Officers was actuated with malice and under influence of extraneous reasons to create vacancy to adjust Programme Officer under probation and training to higher post of District Programme Officer?

(v) As to whether it is unknown, extraneous procedure as well as peculiar and circuitous device of the department in the eye of law or not to post an employee on the higher posts in avenue of promotion but without pay of that post saying "in his own pay-scale"?

(vi) As to whether the law of the land permits democratic form of government to take work



independently from Programme Officer transferring in his own pay scale to promotional post of District Programme Officer, from District Programme Officer to promotional post of District Education Officer and from District Education Officer to promotional post of Regional Deputy Director in their own pay scale.

(vii) As to whether adoption of such device as has been adopted in the orders passed on 30.6.2020 herein for posting the juniors to in the higher post of their of promotional avenue post is legal and just or fit to be strike of?

(viii) The other relief or reliefs to which the petitioner is found entitled for.

It is a settled principle of law that no PIL in relation to service matters, except by way of quo warranto for appointment is maintainable.

The present petition, in our considered view, is not maintainable in view of the law laid down in the case of **HariBnsh Lal vs. Sahodar Prasad Mahto and others, (2010) 9 SCC 655** as also in the case of **Madan Lal Vs. High Court of Jammu and Kashmir and others, (2014) 15 SSC 308**, more so when the petitioner who challenges the recruitment process, is not an aggrieved party. Secondly, the petitioner challenges the process which stood completed way back in the year 2019 and the writ petition filed on 17.09.2020.

The writ petition has been filed by an organization termed as “Bihar Pradesh Bhrashtachar Unmulan Samiti” whereas in



para 3 of the petition it is stated that the “petitioner is a Press Reporter, Social Worker and Citizen of India”. These averments are contradictory. Not a printers mistake.

Also, in our considered view, petitioner ought to have approached the authorities inviting attention of infraction of any rule more so with regard to the appointment of the District Education Officer before approaching this Court.

On all counts, we find the present petition to be baseless and, perhaps, an abuse of process of law. As such, we dismiss the writ petition.

(Sanjay Karol, CJ)

(S. Kumar, J)

pallavi/-

AFR/NAFR	
CAV DATE	
Uploading Date	23.09.2020
Transmission Date	

