

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13406 of 2019

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Sushil Kumar Son of Umesh Kumar Singh Resident of Mohalla-Nutan Nagar,
P.S. Civil Line, Gaya, District-Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna
2. Director Municipal Administration Urban Development and Housing Department, Government of Bihar, Patna
3. Under Secretary Urban Development and Housing Department, Government of Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar
For the Respondent/s : Mr.Kinkar Kumar (Sc9)

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 28-09-2020

The transfer order dated 30.06.2019, whereby the petitioner has been transferred from Dehri Nagar Parishad as Executive Officer to Nagar Parishad, Sasaram, is assailed in the instant writ petition.

Learned Counsel for the petitioner submits that he was transferred to Nagar Parishad, Siwan on 28.6.2018 from Bodh-gaya. On 15.1.2019, he was transferred from Nagar Parishad, Siwan to Nagar Parishad, Dehri/Dalmianagar. On 30.6.2019 he has been transferred from Dalmianagar to Sasaram. It is this order dated 30.6.2019, which the petitioner submits is unsustainable in the eye of law as it is his third frequent transfer.

Learned Counsel for the petitioner has referred to letter dated 3.6.2009 issued by the Cabinet Secretariat Department to submit that in accordance with para 4(घ) of the said letter, reasons



were required to be assigned in the transfer order, if the transfer was effected prior to completion of three years tenure at any particular place as has been done in the instant case.

Learned State Counsel has referred to the averments made in the counter affidavit. The administrative exigency under which the petitioner's transfer has been effected under order dated 30.6.2019 has been placed on record. The earlier incumbent on the post of Executive Officer at Sasaram had been issued a show cause notice by the Department, as allegedly she had not complied with the decision of the Empowered Standing Committee, Nagar Parishad, Sasaram. In order to maintain smooth functioning at Nagar Parishad, Sasaram she was transferred from Nagar Parishad, Sasaram. The post therefore was vacant and the petitioner who was at that time working at Dalmianagar, about 20 Kilometers away and within the same district of Rohtas, was shifted as Executive Officer, Sasaram Nagar Parishad. The counter affidavit also highlights the fact that the petitioner's home district is Aurangabad, adjacent to Rohtas.

Learned State Counsel has argued with emphasis that such transfer order, affected to maintain smooth administrative functioning, ought not be interfered with by this Court in writ jurisdiction.

Having considered the rival submissions and going through the counter affidavit, this Court would observe that the transfer order assailed does not suffer from any malafide as no malafide whatsoever has been alleged. Clause 4(घ) of the letter referred to by the petitioner does not require assigning of reasons in the transfer order. However the same requires that specific reason should be there in the records so as to sustain the premature transfer order. Specific reasons have been disclosed by the said



authority in their counter affidavit. The reasons assigned apparently sustain the transfer order for maintaining smooth administrative functioning. It is not the petitioner's case that he has been transferred to a place where he will suffer any prejudice on account of lowering of his rank, status or emoluments.

By effect of the stay order passed earlier in the instant proceeding the petitioner has already continued at Dalmianagar since last more than one year.

In the considered opinion of this court no case is made out for interfering with the transfer order. Transfer order as an incidence of service, which facilitates smooth functioning of the administration and in support of which specific reasons have been assigned, need not be interfered with by this Court exercising its discretionary jurisdiction under Article 226 of the Constitution of India.

The writ petition is devoid of merit. The same is dismissed.

(Madhuresh Prasad, J)

SNkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.09.2020
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