

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19867 of 2019

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Kamal Kishore Sharan Son of late Tripurari Sharan, Resident of Mohalla- West Lohanipur(Main Road), House No. 319 , P.S. Kadamkuan, Patna- 800003, at Present Posted as In- charge Assistant Director, Mines and Geology, Anchal Office- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna.
3. The Additional Secretary-Cum-Director, Mines, Department of Mines and Geology, Government of Bihar, Patna.
4. The Under Secretary, Department of Mines and Geology, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Smt. Nevedita Nirvikar, Advocate Mr. Amaresh Kumar Sinha, Advocate
For the State	:	Mr. M.K. Upadhyay, A.C. to G.P. -3
For the Mines	:	Mr. Naresh Dikshit, Spl. P.P. Mines, Ms. Vaishnavi Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

7 20-01-2020 Heard learned counsel for the parties.

2. The petitioner was working as a Scientific Officer in the District Mining Office, Sitamarhi, when he was transferred to the post of In-charge Assistant Director, District Mining Office, Gaya, by a notification issued by the Department of Mines and Minerals, Govt. of Bihar, on 29.06.2018. He joined the post on 04.07.2018. By subsequent notification dated 28.06.2019, the petitioner has been transferred from the post of



Incharge Assistant Director, District Mining Office, Gaya, and posted in the same capacity at Purnea. By the said notification dated 28.06.2019, 14 Officers have been transferred and posted from one place to another. The said notification is apparently of a chain transfer.

3. The petitioner has challenged the said notification dated 28.06.2019 in the present writ application mainly on the ground that the transfer is in breach of the own guidelines adopted by the State Government for transfer and posting of such Officers. According to the petitioner, his transfer, within one year of his posting at Gaya, is premature and without any justification. From the impugned notification, it transpires that one Ghanshyam Jha has replaced the petitioner at Gaya. The petitioner has joined his place of posting at Purnea and his successor also appears to have joined the post at Gaya. The said Ghanshyam Jha is not a party in the present proceeding. As has been indicated above, by the said notification dated 28.06.2019, a chain of transfers have been notified. Ghanshyam Jha was posted at Nalanda and on his transfer from Nalanda to Gaya, another Officer has been transferred in District Mining Office, Nalanda. Apparently thus, any interference with the impugned decision, transfer of the petitioner from Gaya to Purnea, will



certainly have a cascading effect. This aspect is to be kept in mind while considering the petitioner's challenge to the impugned notification.

4. My attention has been drawn to the guidelines issued by the Mining and Mineral Department, Government of Bihar, dated 12.04.1999 to contend that transfer and posting of the mining officials should be made only after completion of period of three years at one station.

5. Affidavits have been filed on behalf of the State Respondents taking a plea that since the petitioner has failed to achieve the target for collection of revenue fixed for the District Mining Office at Gaya, a decision was taken to shift him from that place to another place and, accordingly, he was shifted and posted to Purnea. The said stand of the State Government that the petitioner had failed to achieve the target has been strenuously resisted on behalf of the petitioner with the submission that the said target was subsequently revised and the petitioner had, at the very beginning, and soon after his joining the post at Gaya, informed his superiors that the target fixed was excessively high, impractical and could not be achieved in the concerned financial year.

6. Learned counsel appearing on behalf of the



petitioner has argued that though no *mala fide* can be established on the basis of materials on record, action of the respondents is apparently arbitrary, unreasonable and based on non est whimsical grounds.

7. Learned counsel appearing on behalf of the State, on the other hand, has submitted that it is within the exclusive domain of the State Government to transfer any employee from one place to another keeping in mind the administrative exigencies. She would contend that the petitioner's transfer from Gaya to Purnea has not caused any prejudice to him and in the absence of any proof of *mala fide*, the validity of impugned notification cannot be successfully challenged. She has further submitted that the transfer in question is not punitive in nature.

8. I find substance in submission made on behalf of the State Respondents that it is purely within the domain of competent authority/the State Government to transfer its employee from one place to another. Interference with such transfer by this Court, exercising power of judicial review, may be warranted once it is found that the same is beyond jurisdiction, against statutory provisions or is punitive in nature and/or has been issued *mala fide*. It is true that the 'State' within the meaning of Article 12, should normally follow the



guidelines issued by them or adopted by them for the purpose of effecting transfer of its officers/employees. Such guidelines, however, cannot partake nature of statutory provisions enforceable by Courts of law. In any event as has been noticed above, if the Court would have interfered with the impugned notification, it would have certainly prejudiced the case of the Officer, who has been posted and who has joined at Gaya. He has not been impleaded a party respondent in the present writ application.

9. In view of the above, I do not find any merit in the application.

10. This writ application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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