

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17244 of 2022**

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Anupam Kumari Wife of Sri Sanjeev Kumar, Resident of Village and P.O. Badai, P.S. Hathuari, District- Muzaffarpur presently working as Incharge Headmistress, Up-graded Middle School, Dakrama (Schedule Caste) Aurai, Block- Aurai, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department of Bihar, Patna.
3. The Director, Primary Education, Education Department of Bihar, Patna.
4. The District Magistrate, Muzaffarpur, District- Muzaffarpur.
5. The District Education Officer, Muzaffarpur, District- Muzaffarpur.
6. The District Programme Officer (Establishment), Muzaffarpur.
7. The Block Education Officer-cum-Coordinator, Aurai, District- Muzaffarpur.
8. The Block Development Officer, Aurai, District- Muzaffarpur.
9. The Block Education Committee, Aurai through Block Panchayat Raj Officer- cum-Executive Officer, Block Panchayat Samiti, Aurai, District- Muzaffarpur.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. S.B.K. Mangalam, Adv.<br>Mr. Ravi Ranjan, Adv. |
| For the Respondent/s | : | Mr. Jitendra Kr. Roy 1 (Sc13)                      |

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA**  
**ORAL ORDER**

- 2      20-12-2022                      1. The petitioner assails the order dated 01.11.2022, whereby she has been removed from the post of in-charge Headmistress of Up-graded Middle School, Dakrama, Aurai and has been further transferred to Up-graded Middle School, Bairiya mentioning therein that certain allegations have been found to be proved by the Sub-Divisional Officer-cum-Public Grievances Redressal Authority, who has not given a fair opportunity to the petitioner to submit her defence.



2. Learned counsel submits that a complaint was registered against her by one Jagarnath Sahni before the Sub-Divisional Officer-cum-Public Grievances Redressal Authority. The said authority did not issue notice to the petitioner. However, explanation was sought by the Block Education Officer from the petitioner. Whereafter, Public Grievances Redressal Authority did not take any action. The concerned complainant filed a second appeal before the District Magistrate and the District Magistrate directed the B.D.O. to conclude the departmental Proceedings within a time frame but no departmental proceedings were initiated against the petitioner and without framing any charge, the petitioner has been transferred. Learned counsel submits that as per Rule 15 (3) of the Rules of 2020, the petitioner can only be transferred if the charge of financial irregularity proved against a teacher.

3. I have considered the submissions and carefully consider Rule 15 (3) of the Rules of 2020 reads as under:-

*15. Transfer:- The posts of Head Master, Teacher and Instructor generally are not transferrable, however for Headmasters and Teachers following exceptions may apply:*

*(i) During the service period Head master and Teacher may avail two optional transfers after completing three years of service within the schools situated under the recruitment*



*unit. There shall be difference of five years in between the two optional transfers. The transfer shall be made in his/her grade/cadre only. If more than one application is received for one vacant post, then the member secretary of the recruitment unit shall take steps for transfer on the basis of inter se seniority in which handicapped head master, teacher and women head master, teacher shall be given priority respectively. The approval of this action shall be given by the committee constituted for the purpose of appointment.*

*(ii) The Administrative Department may direct the recruitment unit to absorb teachers in other school in compliance of the Right of Children to Free and Compulsory Education Act, 2009 (as amended) and provisions contained in corresponding notified rules. The member secretary shall comply the direction within fixed time frame after getting the approval of the Chairman of the recruitment unit.*

*(iii) In the case of proved financial irregularities, moral turpitude or other serious charges, the member secretary of the recruitment unit shall transfer head master/teacher, for one time on administrative ground in the interest of school and students. The approval of this action shall be given by the Chairman of the committee constituted for the purpose of appointment.*

*(iv) Handicapped Teacher and Woman Teacher may avail optional transfer for one time only at schools situated in inter-recruitment unit, including inter-district. Besides, male teachers may also avail mutual inter-recruitment unit (including inter-district) transfer for one time only. In this regard, the Administrative Department will issue detailed guidelines keeping in mind the reservation category, seniority etc.*

4. From perusal of the above, it is apparent that while



Rule 15 does not allow transfers of teachers, generally however certain exceptions have been carved out. In terms of Sub Rule 3 of the said Rule as quoted above, it is apparent that if there is any charge of financial irregularity, the person may be transferred. Question whether the charge is to be finally proved, in the opinion of this Court, it would not be an embargo to transfer the person if upon an inquiry, the charge is found to be prima facie proved. In the present case, a report of financial irregularity against the petitioner and she has therefore been transferred.

5. No interference is therefore warranted, the writ petition is dismissed.

**(Sanjeev Prakash Sharma, J)**

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Item no.15

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