

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.156 of 2019

In
Civil Writ Jurisdiction Case No.160 of 2017

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Nityanand Prasad Rana Jagdish Pandit Resident of Baidhi Sadan, Sharma
Chwk, PO- Simari Bhakhtiyarpur, PS- Bhakhtiyarpur, District- Saharsa.

... .. Appellant/s

Versus

1. The state of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The Director, Primary Education Government of Bihar Patna
4. The District Education officer, Saharsa, District Saharsa
5. The District Programme officer (Establishment) District Saharsa
6. The Block Education Officer, Banma, Itahri District Saharsa.
7. The Mukhiya Gram Panchayat, Itahri Block Manma Itarhi, District Saharsa
8. The Panchayat Secretary, Gram Panchayat Itahri Block-Banma itahri, District Saharsa
9. Ram Narayan Yadav Village and P.O.-itarhi, P.S.-Salakhua, District-Saharsa.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Shree Kant Pandey, Adv.

For the Respondent/s : Mr. Shashi Shekhar Tiwari, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 28-03-2023

A prayer for pass-over has been made on behalf of the counsel appearing on behalf of the appellant but, after going through the records of this case, it does not appear to be proper to keep this case pending for such a long time as this appeal is of the year



2019.

The appellant had questioned his transfer order dated 16.01.2016 on two grounds viz. that his service was non-transferable and that the person issuing the transfer order was under suspension.

Both the grounds did not find favour with the learned Single Judge who passed an order on 18.12.2018 in CWJC No. 160 of 2017 which has been impugned in this appeal. The concerned Rule was interpreted by the learned Single Judge and it was held that ordinarily a person would not be transferred but there was no complete bar to the transfer of a teacher. Apart from this, it was taken into account by the learned Single Judge that the appellant had vitiated the entire educational atmosphere and used to pass vulgar comments on women and girls of the village and, therefore, it had become necessary to transfer him from the school in question.

Thus, the Panchayat Secretary had exercised



his authority under Rule 15 (5)(iii) of the Bihar Panchayat Primary Teacher (Employment & Service Conditions) Rules, 2012.

The other ground raised on behalf of the appellant was also not found to be factually correct as only after the order of transfer, the Panchayat Secretary was suspended.

However, Mr. Shashi Shekhar Tiwari, learned counsel for the Respondent/State has drawn the attention of this Court towards the fact that this appeal has become infructuous as the services of the appellant had already been terminated vide order dated 27.01.2018.

The appeal is thus dismissed.

(Ashutosh Kumar, J)

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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