

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.19 of 2019

In
Civil Writ Jurisdiction Case No.8339 of 2014

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1. The State of Bihar Bihar
 2. Through Principal Secretary, Education Department, Govt. of Bihar, Patna.
 3. The District Education Officer, Vaishali at Hajipur Bihar
 4. The District Programme officer (Establishment), Vaishali at Hajipur

... .. Petitioner/s

Versus

Sanjay Kumar Son of late Saryug Ram R/o Village and P.O. Loma, P.S.
Tisiouta, Distt. Vaishali

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shiv Kumar(AC To GA 3)
For the Opposite Party/s : Mr. Bipin Bihari Singh

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

ORAL JUDGMENT

Date : 19-04-2023

1. Learned counsel for the review petitioner submits that the order passed by this Court dated 11.07.2018 deserves to be reviewed/recalled as the Rule quoted by this Court in Para 5 of the Judgment stands already repealed. He has invited attention to the notification issued under the proviso to Article 309 of the Constitution of India laying down the **Bihar State Primary School Teachers and Headmasters Transfer Rules 2006** (hereinafter, referred as **Rules of 2006**) and to Rule 10 thereto, whereby, under the repeal and savings clause, the



State Primary School Teachers (Transfer and Disciplinary Proceedings) Rules 2002 have been repealed. It is pointed out that this Court has quoted Rule 21 of the extinct Rules of 2002 which stood already repealed after coming into force of the Rules of 2006 and as on the date when the action was taken in 2014 by the District Education Officer, the Disciplinary Rules 2002 had become non-existent. In fact, the **Bihar C.C.A. Rules 2005** would have an application to all the employees and since the District Education Officer was the appointing authority, he was authorized to pass the order.

2. Learned counsel appearing for the original writ petitioner does not dispute regarding coming into force of the Rules of 2006, but submits that in absence of any provision under the Rules of 2006 relating to discipline, the earlier rules will have its application. At present, while examining the review petition, the fact regarding Rules of 2002 having been repealed, is sufficient to recall the order dated 11.07.2018. The question whether the Rules of 2002 will still apply, while Rules of 2006 have come into force, is a matter which shall be examined on merits by the Court independently. The order passed by this Court in **C.W.J.C. No. 8339/2014 (Sanjay Kumar Vs. The State of Bihar & Ors.)** dated 11.07.2018 is accordingly set



aside and recalled. The writ petition is directed to be again re-numbered, renewed and placed on its original number and placed for arguments before the Court afresh.

3. The review petition stands disposed of accordingly.

(Sanjeev Prakash Sharma, J)

Sachin/-
Item No. 52

AFR/NAFR	
CAV DATE	
Uploading Date	19.04.2023
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