

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3840 of 2023

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Kapil Prasad Son of Late Badho Singh Resident of Village- Bariya Nawadih,
Post- Gangi, Police Station- Barachatti in the district of Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Magadh Division, Gaya.
5. The District Education Officer, Gaya.
6. The District Programme Officer (Estb.), Gaya.
7. The Block Education Officer, Dobhi in the district of Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sunil Kumar
For the Respondent/s : Mr.Smt. Binita Singh (Sc28)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 13-10-2023 1. The present writ application has been filed for a direction to the respondent no. 6 / District Programme Officer (Establishment), Gaya to consider the request of the petitioner for his transfer as per Rule 3 read with Rule 5 (Kha) of the Bihar Nationalized Elementary Teacher Transfer (Disciplinary Action and Promotion) Rule, 2018 as per option exercised by the petitioner.
2. The petitioner was appointed as a teacher against the vacant sanctioned post of Assistant Teacher



through B.P.S.C. on 21/09/1994 and thereafter he joined as Assistant Teacher in Primary School, Lodipur under Manpur Block in the district of Gaya. At present the petitioner is working as Headmaster in Middle School (Urdu), Bhadheya under Barachatti Block in the district of Gaya.

3. Learned counsel for the petitioner submits that a Rule under Article 309 of the Constitution of India known as Bihar Nationalized Elementary Teacher Transfer (Disciplinary Action and Promotion) Rule, 2018 [for short “Rules 2018”] has been framed and under Rule 3 of the Rules, 2018 the structure of category has been defined for the District Cadre Teachers in Nationalized Elementary School in which the post of Headmaster in Middle School (2nd promotional post) is also included. As per Rule 5 (Kha) of the Rules, 2018 two opportunities have been given to the teachers of their choice transfer in each category with only condition that four years minimum gap should be there between first request and second request for transfer. The petitioner has submitted representation for his transfer from Middle School (Urdu), Bhadheya under Barachatti Block



to Middle School, Paraiya, Block: Bodhgaya or Middle School, Ningari, Block: Dobhi vide Annexure -3 dated 31.01.2023 for request transfer giving two options i.e. Middle School, Paraiya, Block: Bodhgaya or Middle School, Ningari, Block: Dobhi. The request of transfer of the petitioner is still pending before respondent authorities i.e. respondent no. 5 / District Education Officer, Gaya.

4. Learned counsel for the State submits that the representation of the petitioner filed by before the D.E.O., Gaya shall be forwarded by the D.E.O., Gaya to the respondent no. 6 / District Programme Officer (Estb.), Gaya who is the competent authority to take decision upon request of the petitioner.

5. Having heard learned counsel for the parties and taking into consideration the fact that request for transfer of the petitioner as per Rules is pending before the respondent authorities, accordingly, I direct the respondent no. 5 / District Education Officer, Gaya to forward the application / representation of the petitioner for his request transfer to the respondent no. 6 / District Programme Officer (Estb.), Gaya within a period of fifteen days from



today and the respondent no. 6 is further directed to take a final decision upon the request of the petitioner in accordance with law within a period of one month from the date of receipt of a copy of representation / request of the petitioner from the office of D.E.O., Gaya.

6. With the aforesaid observation and direction this writ application is disposed of.

(Anil Kumar Sinha, J)

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