

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13820 of 2019

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Urmila Kumari Wife of Raj Kumar Mahto Resident of Village- Bibipur, P.S.-
Garkha, district- Saran.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Education Department, Bihar, Patna.
2. The Regional Deputy Director of Education Saran Division at Chapra.
3. The District Education Officer Saran at Chapra.
4. The District Programme Officer (Establishment) Saran at Chapra.
5. The Block Education Officer Garkha, District- Saran at Chapra.
6. Panchayat Secretary Gram Panchayat Raj, Mithepur, Garkha Block, District- Saran.
7. Mukhiya Gram Panchayat Raj Mithepur, Garkha Block, District- Saran.
8. Vidyarthi Krishna Prasad Son of now known Incharge Headmaster Primary School, Bibipur, P.S.- Garkha, District- Saran.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Shashi Dhar Jha, Advocate
For the State	:	Mr.Jai Prabhat Kishore, AC to SC-13
For the Respondent No.8:	:	Mr.Ravindra Nath Dubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 05-09-2023 The grievance of the petitioner is that she has not been allowed to join at the transferred school i.e. Primary School, Bintoli, Mithepur, Garkha in absence of a relieving letter from the Primary School, Bibipur where she was earlier posted.

2. On perusal of the office order contained in Memo No. 952 dated 20.12.2018 (Annexure '9' to the writ application) it appears that the Regional Deputy Director Education (in short 'R.D.D.E.'), Saran Division, Chapra has specifically stated that the transfer order of the petitioner has not been cancelled and



she may immediately submit her joining in the transferred school.

3. This Court vide order dated 11.07.2019 while granting time to the District Program Officer, Establishment, Saran at Chapra called upon the said respondents to indicate in affidavit the place of posting as well as the payment of salary of the petitioner and observed that the petitioner cannot be left without posting.

4. At this stage, a counter affidavit has come on behalf of Respondent No. 2 who is the author of the order as contained as Annexure '9' to the writ application. In Paragraph '6' of the counter affidavit it is stated that the petitioner was working from 27.05.2017 to 01.05.2018 in the new Primary School, Bintoli, Mithepur and she has been relieved on 02.05.2018 for joining of the original school. In this regard reliance has been placed upon Annexure 'C' to the counter affidavit.

5. A perusal of Annexure 'C' shows that the employment unit of the petitioner namely Gram Panchayat-Mithepur had transferred the petitioner vide letter no. 34 dated 13.05.2017 to the New Primary School, Bintoli, Mithepur but the District Program Officer Establishment, Saran issued certain directions to the Block Education Officer, Garkha, Saran and in



the light of the said letter of the District Program Officer, the Block Education Officer, Garkha vide his letter no. 142/ BRC, Garkha dated 28.04.2018 directed the petitioner to submit her joining in the original school. It is for this reason that vide Annexure 'C' the Principal of the New Primary School, Bintoli, Mithepur has informed to the Panchayat Secretary of the Employment Unit that the petitioner was relieved from the School to join at her original place. The order relieving the petitioner has not been brought on the record with the counter affidavit.

6. The detail report of the Panchayat Secretary, Garkha has been brought on record as Annexure 'A' to the counter affidavit. It is evident from Annexure 'A' to the counter affidavit that by order of the Block Education Officer, Garkha the petitioner was directed to remain working in the New Primary School, Bibipur and she was directed to put her attendance in the said school. The Panchayat Secretary has further written that pursuant to the order of the R.D.D.E. as contained in Annexure '9' to the writ application the petitioner was again directed to be posted in the New Primary School, Bintoli whereafter the petitioner has not joined at the Primary School, Bintoli, Mithepur.



7. Upon perusal of the entire materials brought on the record and on carefully examining the same one thing is very clear to this Court that it is admission of the respondents that the petitioner had been working at the New Primary School, Bintoli, Mithepur from 27.05.2017 to 01.05.2018. Although it is stated that she had been relieved on 02.05.2018 but no order relieving the petitioner has been brought on record. It seem that after the letter dated 25.04.2018 of the Block Education Officer, Garkha the petitioner was supposed to go back to the earlier school.

8. The order of the Block Education Officer, Garkha to the In-charge of the Primary School, Bibipur, Garkha is Annexure '5' to the writ application which is an admitted document has created all kinds of confusions and the petitioner who was already working after her transfer, in the New Primary School, Bintoli, Mithepur which is the transferred school was not allowed to continue there. Annexure '9' which is the order of 'R.D.D.E.' also accepts that the petitioner shall continue at Bintoli because her order of transfer has not been cancelled.

9. In the circumstances stated above, this Court directs the respondents to allow the petitioner to continue at her transferred school i.e. New Primary School, Bintoli, Mithepur, Garkha. No hindrance shall be created in accepting her joining



and in continuance with the current salary.

10. So far as the claim of salary for the disputed period is concerned, this Court directs the District Education Officer, Saran at Chapra to conduct an inquiry into the reasons because of which this confusion arose and fix the responsibility on the erring officials/ persons, if any.

11. If it is found that the petitioner had not been absenting for the reasons attributable to her, she would be entitled for her salary and other emoluments for the said period and the entire amount shall be realized from the erring officials in accordance with law.

12. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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