

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12343 of 2023

Manish Kumar Son of Late Brahamdeo Prasad, Resident of Village- Cherki Dih, Police Station- Sherghati 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, Dumaria in the district of Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar
For the Respondent/s : Mr.Kameshwar Kumar (Gp17)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 213-10-2023
1. The present writ application has been filed for a direction to the respondents authorities 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 vacant sanctioned post of Assistant Teacher on compassionate



ground on 27.06.2000 and thereafter he joined as Assistant Teacher in Middle School, Madanpur under Madanpur Block in the district of Aurangabad. At present the petitioner is working as Headmaster in Middle School, Bhangiya under Dumaria 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, Bhangaiya under Dumaria Block in the district of Gaya to Middle School, Kapasiya under Paraiya Block, Gaya or to Middle School, Satanand Gram Sagahi under Gurua Block in the district of Gaya vide Annexure -3 dated 02-06-2023 for



request transfer giving two options i.e. Middle School, Kapasiya under Paraiya Block, Gaya or to Middle School, Satanand Gram Sagahi under Gurua Block in the district of Gaya . 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 Establishment Committee as per Rule 4 of the Rules 2018 which is the competent authority to take decision upon the 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 Establishment Committee within a period of fifteen days from today and the Establishment Committee 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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