

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17818 of 2022

Chinchin Kumari wife of Rajeev Kumar Resident of Ward No. 11, Pustakalay Gauspur, Village- Rajaura, Police Station- Cheria Bariarpur, District- Begusarai- 851131.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director Secondary Education, Education Department, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Munger Division, Munger, Bihar.
5. The District Magistrate, Begusarai, Bihar.
6. The District Education officer, Begusarai Bihar.
7. The District Programme Officer (Establishment) Education Department, Begusarai.
8. The District Programme Officer (Madhyamik Shiksha), Begusarai, Bihar.
9. The Secondary/Higher Secondary Teacher Niyojan Samiti, Zila Parishad Begusarai Bihar through Additional Collector cum Chief Executive Officer-cum-Secretary.
10. The Additional Collector-cum-Chief Executive Officer-cum-Secretary, Secondary/Higher Secondary Teacher Niyojan Samiti, Zila Parishad, Begusarai, Bihar.
11. The Additional Chief Executive Officer, Zila Parishad, Begusarai, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Suman Kumar, Adv.
For the Zila Parishad	:	Mr. Nitesh Kumar, Adv.
For the State	:	Mr. Hitesh Suman, AC to SC-13

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 04-01-2023

1. Heard the parties.

2. The petitioner by way of this writ petition assails the transfer order dated 23.11.2022, whereby she has been



transferred from the Upgraded Middle School, Babhangama to Upgraded Middle School, Guddar Block- Gadhpura in the same District of Begusarai.

3. Learned counsel for the petitioner submits that the petitioner had submitted an option for her transfer in terms of Rule 16 (1) of the Rules, but when she was not transferred a writ petition was preferred before this Court, wherein this Court directed the respondents to take a decision within a period of 60 days. Whereafter a Contempt Petition was filed for non-compliance. Aggrieved and incensed by such proceedings, it is submitted that the respondents have transferred the petitioner to a far of place 40 K.M. away from the present place of posting.

4. Learned counsel submits that another person is already posted at the same place. Learned counsel submits that the petitioner is a lady and ought not be disturbed.

5. I have considered the submission, Rule 16 of the **Bihar Municipal Body Secondary and Senior Secondary School Service (Appointment, Promotion, Transfer, Disciplinary Proceedings and Service Conditions), Rules, 2020** (hereinafter referred as Rules of 2020) provide as under:-

*“16. **Transfer** -The posts of Head Master, Teacher and Instructor generally are not transferrable. However for Head Master and teacher following exceptions, may apply: (i) During the service period Head master and Teacher may avail two*



optional transfer after completing three years of service within the schools situated under the recruitment unit. There shall be difference of five years in between the two optional transfer. The transfer shall be made in his/her grade/cadre only. If more than one application is received for one vacant post, then the member secretary of the recruitment unit shall take steps for transfer on the basis of inter- se seniority in which handicapped Head Master, Teacher and female Head Master, Teacher shall be given priority respectively. The approval of this action shall be given by the committee constituted for the purpose of appointment. 20 (ii) The Administrative Department may direct the recruitment unit to absorb teachers in other school in compliance of the Right of Children to Free and Compulsory Education Act, 2009 (as amended) and provisions contained in corresponding notified rules. The member secretary shall comply the direction within fixed time frame after getting the approval of the Chairman, of the recruitment unit. (iii) In the case of proved financial irregularities, moral turpitude or other serious charges, the member secretary of the recruitment unit shall transfer head master/teacher, for one time, on administrative ground in the interest of school and students. The approval of this action shall be given-by the chairman of the Committee constituted for the purpose of appointment. (iv) Handicapped Teacher and Woman Teacher may avail optional transfer for one time only at schools situated in inter recruitment unit, including inter district. Besides, male teachers may also avail mutual inter recruitment unit (including inter district) transfer for one time only. In this regard, the Administrative Department will issue detailed guideline keeping in mind the reservation category, seniority etc."

6. From perusal of the aforesaid, it is apparent that a Teacher may take an option for transfer twice during his service with a gap of five years in between. A look at the application moved by the petitioner shows that the petitioner had applied for



transfer to various schools in Begusarai itself. From the record which has been place along with the writ petition, it appears that there is a dispute between the two teachers working in the same School namely Amit Kumar and present petitioner. The concerned administrative authority, therefore, transferred both of them from the said School to other places in Begusarai itself. The distance of only 40 K.M. cannot be said to be too far for being treated as a case of disturbance. That apart as per the petitioner's own option, she has opted for School in Begusarai alone as it is apparent from her Form, Annexure-4. The particular Schoola which she has mentions may not be necessary the concerned Schools where she has been transferred, but being in the same District it cannot be said that any illegality has been committed.

7. In view thereof, no interference is warranted. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 21

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