

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10278 of 2022**

Dr. Raghwendra Kishor son of Late Rajiv Ranjan Sahay, resident of A/79, P.C. Colony,  
Kankarbagh, P.O.-Lohiyanagar, District-Patna-800020.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Bihar, Patna.
2. The Vice-Chancellor, Patliputra University, Kankarbagh, Patna-800020.
3. The Registrar, Patliputra University, Kankarbagh, Patna-800020.
4. The Principal, College of Commerce, Arts and Science (a Constituent Unit of Patliputra University, Patna), Opposite Rajendra Nagar Terminal, Kankarbagh, Patna.
5. Dr. Asha Rani, Associate Professor, Department of Political Science, the College of Commerce, Arts and Science, Patna.
6. Dr. Sanjay Kumar-II, Associate Professor, Department of Political Science, the College of Commerce, Arts and Science, Patna.

... .. Respondent/s

**Appearance :**

|                                |   |                                                                             |
|--------------------------------|---|-----------------------------------------------------------------------------|
| For the Petitioner/s           | : | Mr. Vindhya Kesari Kumar, Sr. Advocate<br>Mr. Ravi Shankar Pathak, Advocate |
| For the Respondent/s           | : | Mr. Madhaw Prasad Yadaw ( Gp 23 )<br>Mr. Arvind Kumar, AC to GP- 23         |
| For the Patliputra University: |   | Mr. Rana Vikram Singh, Advocate<br>Mrs. Rasika, Advocate                    |

**CORAM: HONOURABLE MR. JUSTICE NANI TAGIA**  
**ORAL JUDGMENT**

**Date : 11-09-2024**

Heard Mr. Vindhya Kesari Kumar, learned senior counsel for the petitioner, Mr. Arvind Kumar, learned State Counsel representing respondent No. 1 and Mr. Rana Vikram Singh, learned counsel for the Patliputra University representing respondent Nos. 2 to 4.

2. Insofar as respondent Nos. 5 and 6 are concerned, learned senior counsel for the petitioner has submitted that since



no relief has been claimed against the respondent Nos. 5 and 6, they may be struck off from the array of respondents.

3. As prayed for by learned counsel for the petitioner, name of respondent Nos. 5 and 6 shall stand deleted from the array of respondents in the instant writ petition.

4. The petitioner has challenged the notification dated 26.04.2022 (Annexure -1), issued by the Registrar, Patliputra University, Patna vide memo No. R/PPU/716/22 under the order of Vice-Chancellor, Patliputra University, whereby the petitioner, who is an Associate Professor, Department of Political Science, College of Commerce, Arts and Science, Patna has been transferred to R.L.S.Y. College, Bakhtiyarpur.

5. The State/ respondent No. 1 has filed a counter affidavit, wherein, in paragraph No. 12 it has been stated that the impugned order of transfer has been issued by the Patliputra University and it is the Patliputra University who has to take a call on the issue and the State Authority has no role in transfer and posting of the teaching and non-teaching employee of the University.

6. The Patliputra University/ respondent Nos. 2 to 4, who are the main contesting parties, have not filed counter



affidavit despite the writ petition being pending since the year 2022.

7. Vide order dated 16.01.2023 the respondent-University was granted three weeks time to file counter affidavit. When the writ petition was listed on 11.07.2024, three weeks further time was granted to the respondent- University for filing of the counter affidavit. The matter was again listed on 06.08.2024 on which date, on the prayer of learned counsel for the University, three weeks further time was granted for filing of the counter affidavit. On 27.08.2024, learned counsel for the University had submitted that the counter affidavit on behalf of the University has been prepared and the same shall be filed within a week. Despite the submission made by learned counsel for the University as recorded in the order dated 27.08.2024, the respondent-University has not yet filed the counter affidavit.

8. This Court deprecates the conduct of the University and the learned counsel representing the University, despite various opportunities granted to the University for filing of the counter affidavit as indicated hereinabove and the conduct of the learned counsel for the University in not filing the counter affidavit in terms of the submission made by him on 27.08.2024 that the counter affidavit shall be filed within a week.



9. Learned counsel for the respondent-University, however, submits that the stand taken by the University in the counter affidavit is that there were several complaints received against the petitioner for which a three men Committee was constituted to examine the complaints against the petitioner and on the basis of recommendation made by the three-man Committee constituted, the impugned order of transfer was issued, whereby, the petitioner has been transferred to R.L.S.Y. College, Bakhtiyarpur on disciplinary and administrative ground.

10. I have heard the learned counsel appearing for the parties.

11. Insofar as transfer and posting of an employee is concerned, it is a settled position of law that the transfer of an employee can be made on administrative exigency of services and in the interest of public service.

12. In light of the above settled position of law, for better appreciation of the legality of the impugned transfer order, the impugned transfer order dated 26.04.2022 (Annexure- 1) issued by the Registrar, Patliputra University, Patna is reproduced hereinbelow:-





Date: \_\_\_\_\_

**NOTIFICATION**

Abiding BSU Act, 1976, Part -I Para -10, Clause (18) and recommendations of Three men committee constituted vide Memo No. R/PPU/626/22 dt. 06.04.2022, Dr. Raghvendra Kishor, Associate. Prof., Dept. of Political Science, College of Commerce, Arts and Science Patna has been transferred to R.L.S.Y. College, Bakhtiyarpur on disciplinary and administrative ground with immediate effect till further order. His Salary will be drawn from R.L.S.Y. College, Bakhtiyarpur, Patna.

By the order of Hon'ble Vice Chancellor

Sd/-

(Dr. Jitendra Kumar)

Registrar

Patliputra University, Patna.

Memo. R/PPU/716/22

Date: 26.04.2022

**Copy to forwarded for information:-**

1. Person Concerned.
2. Principal, College of Commerce, Arts and Science, Patna.
3. Prof. in-charge, R.L.S.Y. College, Bakhtiyarpur, Patna.
4. F.A/F.O., Patliputra University, Patna.
5. P.A/P.S. to Hon'ble V.C/Registrar, PPU, Patna.
6. Guard File.

*[Signature]*  
 Registrar  
 Patliputra University, Patna.  
 26/04/22

13. On perusal of the impugned transfer order, it appears that the petitioner has been transferred in terms of Part- 1, Para –



10, Clause- 18 of the Bihar State University Act, 1976, and recommendations made by three-man Committee, constituted vide memo No. R/PPU/626/22, dated 06.04.2022. Since, the Patliputra University has not filed a counter affidavit, the order dated 06.04.2022 issued vide memo No. R/PPU/626/22, constituting a three-man Committee and the report of the Committee is not on record. Since, the University has failed to file a counter affidavit enclosing recommendations made by the three-men Committee constituted by the order dated 06.04.2022, this Court has no means to ascertain as to whether the three-men Committee had made a recommendation after the petitioner was afforded an opportunity of hearing or the petitioner was furnished with a copy of the recommendations made by the three men Committee to enable the petitioner to rebut and contest the adverse finding recorded by the three-men Committee against the petitioner.

14. On perusal of Bihar State University Act, 1976, I do not find Part- 1 Para – 10, Clause - 18 as referred to in the impugned order. Para – 10 as referred to in the impugned order appears to be referring to Section 10 of the Bihar State University Act, 1976.



15. Therefore, Part- 1 Section- 10(18) of the Bihar State University Act, 1976 may be quoted for perusal and ready reference, which reads as under:

*“10.The Vice Chancellor:*

*(1). xxxxx*

*(2.) xxxxx*

*(3). xxxxx*

*(4). xxxxx*

*(5). xxxxx*

*(6). xxxxx*

*(7). xxxxx*

*(8). xxxxx*

*(9). xxxxx*

*(10). xxxxx*

*(11). xxxxx*

*(12). xxxxx*

*(13). xxxxx*

*(14). xxxxx*

*(15). xxxxx*

*(16). xxxxx*

*(17). xxxxx*

*(18). The Vice-Chancellor shall have power to take disciplinary action against all employees of the University including officers and teachers of the University.*

*(19). xxxxx”.*

16. On perusal of Part- 1 Section- 10(18) of the Bihar State University Act, 1976, it appears that though the provision



referred to in the impugned transfer order empowers the Vice-Chancellor to take a disciplinary action against all the employees of the University including officers and teachers of the University, but it does not empower the Vice-Chancellor to transfer an employee/officer/teacher of the University on disciplinary and administrative ground. The Vice-Chancellor of the University certainly has the power to take a disciplinary action against an employee/officer/teacher of the University, if there are allegations against any of the employees/officers/teachers of the University after following the due process of law. As has been already indicated hereinabove that it is a settled position of law that the transfer of an employee can be made by the employer on administrative exigencies of services and in the interest of public service but certainly not on disciplinary grounds. The impugned transfer of the petitioner appears to be a punitive transfer as the petitioner has been transferred to another college on the basis of recommendation made by the three men Committee constituted to inquire into the complaints against the petitioner for misconduct without proceeding departmentally and punishing him, if found guilty. The order of transfer which is used as cloak for punishment will be malafide exercise of power. The reason is obvious, punishment is imposed on an employee for misconduct.



If there are allegations of misconduct against employee, the proper course is to take steps for initiating disciplinary proceedings. The transfer of an employee against whom there are allegations of misconduct, cannot be in the interest of good administration for the reason that there will be real likelihood of further misconduct by him/her at the transferred place and also because he/she escapes the penal sanctions which has been engrafted in service law in the public interest. The transfer of an employee on disciplinary ground, therefore, certainly is not an option available to the employer hereinabove.

17. Since the impugned order dated 26.04.2022 transferring the petitioner from College of Commerce, Arts and Science to R.L.S.Y. College, Bakhtiyarpur has not been indicated to have issued on administrative exigencies of service and in the interest of public service but the same has been made on disciplinary and administrative ground as indicated in the impugned order itself and that too in exercise of power under Part- 1 Section 10(18) of the Bihar State University Act, 1976, which only empowers the Vice-Chancellor to take a disciplinary action against the employees, I find that the impugned order of transfer dated 26.04.2022 has not been issued by the Authority on a ground germane for issuing transfer order of an employee.



18. Under the circumstances, I am of the view that the impugned order of transfer dated 26.04.2022 issued by the Registrar, Patliputra University, Patna vide memo No. R/PPU/716/22 cannot be sustained in the eye of law and the same is hereby set aside and quashed.

19. Notwithstanding the above, if there are complaints against the petitioner as has been contended by learned counsel for the respondent-University, it shall be open for the University to proceed against the petitioner in accordance with law.

20. The writ petition is disposed of with above directions.

**(Nani Tagia, J)**

Siddharth  
Sagar/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 13.09.2024 |
| Transmission Date | NA         |

