

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13450 of 2024

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Arun Kumar Paswan, Son of Hari Charan Paswan, Resident of Village -
Khodawandpur, P.S. Khodawandpur, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. Shri Prashant Kumar C.H., the Director, Social Welfare Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar Paswan (In Person)
For the Respondent/s : Mr.Asif Kalim, AC to AAG 12

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 11-09-2024 The petitioner has filed instant writ petition praying
for the following reliefs:-

i) For issuance of an appropriate writ, order or direction, particularly in the nature of writ of Certiorari, quashing the letter no. 353 dated 15.02.2023 issued by the Respondent No.2, Shri Prashant Kumar C.H., the Director, Social Welfare Department, Bihar, Patna by which the writ petitioner was transferred from the post of the Superintendent, Observation Home, Gaya and without assigning any post, Posted to the office of District Child Protection Unit, Arwal only on administrative basis.

ii) For issuance of an appropriate writ, order or direction, particularly in the nature of writ of Mandamus, directing and commanding the respondent authorities to post the petitioner on original post of the Superintendent, Observation Home, Gaya,



because the aforesaid transfer and posting order does not fulfil the condition of Rule 56 of Bihar Service Code, 1952 and Article 311 of the Constitution of India.

iii) Any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case.

2. It is the case of the petitioner that he was posted as the Superintendent, Observation Home, Gaya since 10th of March, 2021 till the date of his transfer, i.e., 15th of February, 2023.

3. It is also stated by the petitioner that in connection with a case where a Children in Conflict with Law (CICL) was not properly treated and kept in the observation home, the learned Principal Magistrate, Gaya, vide letter no. 150 dated 7th of March, 2022, followed by another letter dated 21st of March, 2022, requested to transfer the CICL, Raju Yadav and others under Rule 76(2)(v) of Bihar Juvenile Justice Rules, 2017 but the petitioner failed to take any action on the said letter. The learned Principal Magistrate, Juvenile Justice Board, Gaya issued show cause notice to the petitioner *vide* an order dated 26th of March, 2022 in which she made an allegation of misconduct, insubordination and sought explanation from the petitioner within 3 days. The petitioner filed his reply to show cause on 16th of April, 2022, specifically mentioning the duty of



the Superintendent and requested for age verification of the said CICAL, namely, Raju Yadav who apparently at the age of majority.

4. Subsequently, the Superintendent wrote letters to the Senior Superintendent of Police, Gaya on the basis of the observation made by the Hon'ble Supreme in *Prag Bhati v. State of U.P.* reported in (2016) 12 SCC 744 and *State of Jammu & Kashmir v. Shubam Sangra* reported in 2022 SCC Online SC, 1592 expressing concern over rising rate of juvenile delinquency in India and requesting him to make an inquiry with regard to the date of birth of one Raju Yadav, the above-named CICAL. Subsequently, he was transferred to the office of the District Child Protection Unit, Arwal .

5. The said order of transfer is under challenged in the instant case.

6. Having heard the petitioner in person and on careful perusal of materials on record, I do not find any allegation to the effect that the order of transfer was punitive.

7. Therefore, this Court does not wish to exercise the power of judicial review upon an administrative act of transfer of an employee.

8. The writ petition, being devoid of any merit, is,



thus, dismissed.

(Bibek Chaudhuri, J)

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