

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4254 of 2025

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Sushma Kumari Wife of Vimal Kumar Singh, Resident of Ward No.12, Phulari, P.S- Sandesh, District- Bhojpur at Ara. Presently Posted as Panchayat Teacher, New Primary School, Yadav Tola, Phulari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The District Magistrate, Bhojpur at Ara.
3. The District Programme Officer (Establishment), Ara.
4. The Block Education Officer, Sandesh, Bhojpur.
5. The Panchayat Secretary, Panchayat Niyojan Ekayi, Gram Panchayat-Khandol, District- Bhojpur at Ara.
6. Smt. Sita Devi @ Sita Kumari Wife of Akhilesh Kumar, Resident of Village and P.O.- Phulari, P.S.- Sandesh, District- Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Kumar Sharma, Advocate.
For State : Mr. Ajay Behari Sinha, GA-8.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 18-03-2025 Heard Mr. Rakesh Kumar Sharma, learned counsel

 appearing on behalf of the petitioner and Mr. Ajay Behari Sinha,

 learned GA-8 for the State.

2. The petitioner in paragraph no. 1 of the present writ

petition has sought, *inter alia*, following relief(s), which is

reproduced hereinafter:-

“(i). For issuance of writ in the nature of Certiorari to quash the order dated 11.02.2025 passed in Appeal (Case) T. No. 260/2023 by learned State Appellate Authority, Patna, Bihar whereby and whereunder the learned Appellate Authority passed an order to set aside the transfer order of the respondent No. 6 and affirm the transfer of the petitioner and for relieving of the petitioner from New Primary School, Yadav Tola, Phulari to New Primary School, Yadav Tola, Khandol within a week and further directed that she will be paid any salary only after she joins at new place of posting which is completely erroneous and without jurisdiction.



(ii). For a direction to the respondent authorities to allow the petitioner to work in New Primary School, Yadav Tola, Phulari and salary may be paid accordingly with all consequential benefits.

(iii). For any other relief/ reliefs if the petitioner found entitle in the facts and circumstances of the present case.”

3. Learned counsel appearing on behalf of the petitioner submitted that petitioner is aggrieved by the order of the State Appellate Authority whereby the transfer order of the respondent no.6 was set aside and the transfer order of the petitioner was affirmed. He further submits that the District Appellate Authority had rejected the appeal of the respondent no.6.

4. The petitioner was appointed in the year 2006 on the post of Panchayat Teacher after coming into force of Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006 which was repealed by Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2012 and finally the Rules, 2012 was also repealed by "Bihar Panchayat Elementary School Service Rules, 2020" (hereinafter referred as “Rules, 2020”).

5. Rule 15 of the Rules, 2020 provides for ‘Transfer’. The posts of Head Master, Teacher and Instructor generally are not transferable, however, for transfer of Headmasters and Teachers following exceptions may apply:

(i) During the service period Head master and Teacher may avail two optional transfers 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 transfers. 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 women 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.

(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 guidelines keeping in mind the reservation category, seniority etc.

6. Sub Rule 3 of Rule 2015 of Rules, 2020 provides that “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”.

7. From perusal of the transfer order contained in



Memo No. 02 dated 28.06.2018 by which the petitioner and the respondent no. 6 were transferred, it appears that the transfer order don't fulfill the condition as contained in Sub Rule 3 of Rule 15 of Rules, 2020. I find that both the District Appellate Authority, as well as, the State Appellate Authority have not taken into consideration the guiding Rules and have not given specific finding in respect of the basic facts, as to whether, the transfer of the teachers whose names are contained in Memo No. 02 dated 28.06.2018 including the petitioner and the respondent no.6 was on the administrative ground or for any proved misconduct on their part.

8. The Memo No. 02 dated 28.06.2018 cannot be sustained in the eye of law and in absence of any discussion with regard to the above in the order passed by the District Appellate Authority or the State Appellate Authority, the order passed by the District Appellate Authority, as well as, the State Appellate Authority are hereby set aside and quashed.

9. The writ petition stands disposed of.

(Purnendu Singh, J)

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