

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3030 of 2025

Rajesh Kumar Choudhary S/o- Shri Dhar Chaudhary, Executive Engineer, Rural Works Department, Govt. of Bihar, Permanent Address- Village- Vikramsher, P.O.- Mauahi, P.S.- Babubarhi, District- Madhubani, Pin- 847224.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Vishweshwarayya Bhavan, Rural Works Department, Patna Pin- 800013.
2. The Special Secretary, Vishweshwarayya Bhavan Rural Works Department, Patna Pin- 800013.
3. The Joint Secretary, Vishweshwarayya Bhavan, Rural Works Department Patna- 800013.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Madhumay Madhup, Advocate
For the Respondent/s : Mr. Anuj Kumar, AC to GP-24

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL JUDGMENT

Date : 28-01-2026

The issue involved in the instant writ petition poses a piquant question, which may be formulated in the following words:- Can an executive order of transfer be made on the basis of a complaint made against an employee of the State, forming part of the executive, by a former Member of the Legislative Assembly, or a Member of Parliament, or any private person?

2. The petitioner is an Executive Engineer in Rural Works Department, Government of Bihar. He joined as an Assistant Engineer in the Irrigation Department at Purnea in the year 2018. In 2013, he was transferred to Vaishali as Assistant Engineer in Rural Works Department. Subsequently in 2015, he



was transferred to Dalsing Sarai to discharge his duty as Assistant Engineer, RWD. He continued his service till 2020. In the year 2020, he was transferred to Khagaria. In 2022, he was promoted to the post of Executive Engineer and posted at Patna. In June 2024, he was posted as Executive Engineer, RWD at Kishanganj (II). By an order dated 31.01.2025, the petitioner was transferred as a Technical Advisor, Rural Works Department to the Superintending Engineer at Motihari.

3. The said order of transfer is challenged by the petitioner in the instant writ petition on the following grounds:-

(i) The impugned order of transfer was made within six months from the date of his transfer at Kishanganj.

(ii) The impugned order is punitive.

(iii) By the said order of transfer, the petitioner replaced an Assistant Engineer who used to work as Technical Advisor to the Superintending Engineer. Therefore, the post of Assistant Engineer was filled up by an Executive Engineer, viz., petitioner, which is violative of General Rules of Transfer.

4. By filing a supplementary affidavit, the petitioner has also challenged the impugned order of transfer on the ground that it was not issued by the Additional Chief Secretary, Rural Works Department, Bihar but by an officer who was in-charge of



Additional Chief Secretary of the said Department. The writ petition was challenged by filing counter-affidavit on behalf of respondent nos. 1 to 3.

5. Paragraph nos. 8 to 11 of the counter-affidavit speak about the case of the respondents which are reproduced below:-

“8. That at the outset it would be relevant to mention here that vide Resolution letter No. 28/2006/434 dated 01/03/2007 issued by the Cabinet Secretariat and Coordination Department, Bihar certain policy and procedure have been determined regarding transfer and posting of the employees of the State Government, Clause-1(क) of the said Resolution clearly postulates that in general the transfer and posting shall be made once in a year in the month of June of the said year, but under certain circumstances such as promotion, in the interest of work and administrative reason the transfer can be made at any point of time.

9. That it would be extremely pertinent to bring to the notice of the Hon'ble Court that only during the tenure of six months of the posting of the petitioner, the department has received three complaints against the petitioner making allegations of corrupt practice, demand of bribe and manipulations in the disposal of Tender under Work Division-



Kishanganj-2, the copies of the complaints dated 18/01/2025, 21/10/2024 and 02/10/2024 are being produced for kind consideration of the Hon'ble Court.

10. That pursuant to the aforesaid complaints the Joint Secretary, Rural Works department, Bihar vide his letter No. 1213 dated 13/01/2025, letter No. 403 dated 10/01/2025 and letter No. 27751 dated 25/10/2024 respectively has made request to the Chief Engineer-4, Rural Works Department, Bihar to conduct an enquiry regarding complaints and allegations made against the petitioner and submit the enquiry report thereof.

11. That it is apparent from the above delineated facts that the petitioner has been transferred from Work Division-Kishanganj-2 in the interest of better execution of work under work Division- Kishanganj-2.”

6. It is contended by the learned Advocate for the respondents that in Rural Works Department annual transfer is made once in a year, generally in the month of June. However, in case of promotion or for the interest of work and administrative reason, a person can be transferred from one place to another.

7. It is also submitted by the learned Advocate on behalf of the respondents that the higher authority of the petitioner



received as many as three complaints, one from a sitting M.P., another from a former MLA and, the third one from a private contractor, alleging corruption against the petitioner, therefore, in all fitness of the matter, the concerned authority thought it fit to transfer the petitioner from Kishanganj to Motihari. The order of transfer was not punitive rather it is corrective in nature.

8. Having heard the learned counsels for the parties, it appears to this Court that the executive branch of the State transferred the petitioner on the basis of some complaints made by people's representatives and contractor. On being asked, it is submitted by the learned Advocate on behalf of the respondents that a departmental inquiry is in progress to find out the veracity of the said complaints.

9. I am constrained to note that executive action must be independent and free from any pressure from people's representatives. If an officer is transferred from one place to another on the basis of a complaint made by an MLA or an M.P., this will mean that out of three pillars of democracy, two pillars, viz., Legislature and Executive are run by one and identical group of persons and executive officers dance like puppets at the movement of finger by the people's representatives. This is not the constitutional scheme of this country. At the same time, an



executive authority is empowered to take necessary action against an employee of a particular department if there are allegations of corruption against him provided such allegations are at least prima facie proved. Here the inquiry is going on. The executive authority/transferring authority issued the order of transfer on 31.01.2025 without receiving the preliminary inquiry report. Therefore, I am of the view that the impugned order of transfer is not at all happy. At the same time, I am not unmindful to note that the petitioner has already joined his new place of posting. He has been working for about one year at Motihari as Technical Assistant to Superintending Engineer. At this juncture, when the matter has already been complied with, this Court is not inclined to unsettle the order of transfer by passing any prerogative writ.

10. With the above observation, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

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CAV DATE	N/A
Uploading Date	
Transmission Date	

