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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4325 of 2014**

- Ashok Kumar Singh Bhadoriya, S/o Late N.S. Bhadoriya, Aged about 58 years, Occupation-Service, posted as Block Education Officer Odagi, Block - Odagi, Tehsil & PS Odagi, Revenue & Civil District-Surajpur (CG), R/o Odagi, Post, P.S. & Tehsil-Odagi, Revenue & Civil District - Surajpur, (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh, through Secretary, Tribal Welfare Department, Mahanadi Bhawan, Naya Raipur, Revenue & Civil District-Raipur, (CG)
2. Commissioner, Tribal Welfare, Raipur, Revenue & Civil District-Raipur, (CG)
3. Commissioner, Sarguja Division, Ambikapur, Revenue & Civil District - Sarguja, (CG)
4. Collector, Tribal Welfare Surajpur, Revenue & Civil District-Surajpur, (CG)
5. Assistant Commissioner, Tribal Welfare Surajpur, Revenue & Civil District - Surajpur, (CG)
6. B.R. Bhagat, Posted as Chief Executive Officer, Janpad Panchayat Odagi, Revenue & Civil District-Surajpur, (CG)

---- Respondents

For Petitioner : Shri Surfaraj Khan, Advocate.
 For Respondents 1 to 5 : Shri Shashank Thakur, Govt. Advocate.
 For Respondent No.6 : Shri R.S. Baghel, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****13/05/2015**

1. The petitioner has assailed the legality and validity of the order (Annexure-P/1) whereby the Collector, Surajpur has directed that the charge of office of the Block Education Officer, Odagi is handed over

to respondent No.6 Mr. B.R. Bhagat, who is Chief Executive Officer of Janpad Panchayat, Odagi.

2. It is argued by learned counsel for the petitioner that during the petitioner's posting as In-charge BEO, Odagi, he was suspended and thereafter he was reinstated on 23.9.2013, however, at that time the petitioner was posted elsewhere, which compelled him to file a Writ Petition viz. WP(S) No.3894/2013 before this Court which was disposed of reserving liberty in favour of the petitioner to submit representation making prayer for his posting on the same place wherefrom he was suspended. Instead of giving charge of BEO, Odagi to the petitioner, one Kapoor Chand Sahu was granted the charge on 17.6.2014, therefore, the petitioner had to prefer WP(S) No.3809/2014. During the pendency of the said writ petition, the petitioner was handed over the charge on 28.7.2014, therefore, the said writ petition was dismissed as infructuous. By order dated 15th July, 2014 passed by the State Government, the petitioner was transferred from Odagi to the office of Assistant Commissioner, Tribal Welfare, Surajpur and in pursuance of the same, the petitioner was posted at Government Higher Secondary School, Prem Nagar.
3. In the meanwhile, the Commissioner, Sarguja Division took up the petitioner's representation which the petitioner had preferred pursuant to the direction issued by this Court in WP(S) No.3894/2013. The Commissioner, Sarguja Division by its order dated 28.7.2014 allowed the petitioner to function as In-charge BEO. Immediately after the order passed by the Commissioner, the Collector Sarguja passed the

impugned order directing handing over the charge of the office of BEO, Odagi to respondent No.6.

4. It has been argued that the petitioner having been posted as In-charge BEO under the orders of the State Government, the petitioner cannot be deprived of the office of In-charge BEO.
5. Learned State counsel would submit that even under the orders of the State Government the petitioner remains In-charge, BEO, therefore, depending upon the administrative exigency, the charge of office of the BEO, Odagi can be handed over to any person in the interest of administration.
6. Recruitment to the post of BEO is governed by the Chhattisgarh Scheduled Tribe and Scheduled Caste Development Department Education Cadre (Gazetted) Service Recruitment Rules, 2011 (for short 'the Rules, 2011'). Rule 6 thereof provides for method of recruitment which includes recruitment by transfer. The post of BEO is Class-2 gazetted post. Schedule-II of the Rules provides that the post of BEO shall be filled up 100% by way of transfer from such Principals who are working in the particular pay scale and having 5 years experience. Thus, the post of BEO is to be filled up by transfer from amongst the senior Principals having drawing a particular pay scale.
7. Admittedly, in the case at hand, the State Government has never undertaken any such exercise to fill up the post of BEO by transfer because the order (Annexure-P/2) by which the State Government

has posted the petitioner as In-charge BEO does not refer to any selection process or DPC. It only says that the persons mentioned in the order are transferred and posted as In-charge, BEO. The order remains a posting order rather than the appointment in terms of the Rules, 2011. Thus, the petitioner is not holding the substantive post of BEO.

8. In view of the above, the petitioner may remain as In-charge, BEO, however, he has no right to hold the post. Therefore, the competent authority can post any other person in his place, depending upon the administrative exigency.

9. The writ petition stands disposed of.

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