

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1067 of 2015

- Dr. K. L. Uraon S/o Late Shri Rajau Ram Uraon Aged About 57 Years Working As In-Charge Block Medical Officer, Community Health Centre, Malkhoroda, Block Malkharoda, Tahsil Malkharoda, District-Janjgir-Champa (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Health And Family Welfare Department, Mahanadi Bhawan, Mantrayaa, New Raipur District Raipur Chhattisgarh
2. Director Health Services Chhattisgarh Raipur Chhattisgarh
3. Joint Director Health Services Bilaspur Division, Bilaspur Chhattisgarh
4. Collector Janjgir Chamap, District Janjgir Champa Chhattisgarh
5. The Chief Medical & Health Officer Janjgir Chamap, District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioner	Shri U.R. Koshaley, Advocate
For Respondent/State	Shri P.K. Bhaduri, GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

01/09/2015

Heard finally with the consent of the learned counsel for the parties.

1. The petitioner is aggrieved by the order (Annexure-P-1), whereby the petitioner has been relieved of the officiating charge of the Block Medical Officer, Community Health Centre, Malkharoda.

2. The petitioner would assail the impugned order on the ground that the Collector of the district is not the head of the department at the district level nor is the appointing or the controlling authority of the petitioner, therefore, the Collector has no jurisdiction over the matter.
3. Shri Bhaduri, learned Government Advocate would submit that the petitioner has violated the interim order passed by this Court in WPS No.500/2014, which created an embarrassing situation for the authorities and moreover the petitioner was also behaving in an insubordinate manner, therefore, due to administrative exigency, the Collector has passed the order deriving powers from the State Government's order dated 10.12.2014 (Annexure-R-4).
4. Considering the entire facts situation of the case, this Court is of the considered opinion that if the State Government has been able to demonstrate the immediate administrative exigency for relieving the petitioner of the charge of the Block Medical Officer, this Court would not judicially review under Article 226 of the Constitution of India to assess the adequacy of the administrative exigency, however, at the same time, whether or not the Collector would have the jurisdiction to pass the impugned order is also an issue, which needs to be addressed by the State Government considering the contents of the order dated 10.12.2014. Even if, it is ultimately found that the Collector may not have such jurisdiction. It always remains open for the State Government to pass an administrative order based on the immediate/compelling exigencies, therefore, instead of keeping the petition pending, it is disposed of with a direction that if the petitioner prefers a representation against the impugned order before the Secretary, Department of Health and Family Welfare, Government of

Chhattisgarh, within a period of 1 month from today, the said authority shall consider and decide the representation within a further period of two months.

5. Till the petitioner's representation is decided, the interim order passed by this Court on 12.03.2015 shall continue.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala