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① C.P. 100/-
Single Bench

**BEFORE THE HON'BLE HIGH COURT OF CHATTISGARH AT
BILASPUR**

W. P. (S) NO. 6142 / 2014

PETITIONER

Smt. Jyoti Minj, wife of Shri Dilip Kumar, aged about 52 years, presently posted as District Programme Officer, Department of Women and Child Development, District Balrampur - Ramanujanj (C.G.)

6142/14
P. No.

Presented by Shri. ...

Dated 20/11/14

VERSUS

RESPONDENTS

- 1) State of Chhattisgarh, through the Secretary, Department of Women and Child Development, Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)
- 2) The Collector, Sukma, Collectorate Office, Sukma, Dist. Sukma (C.G.)
- 3) Additional Collector, Sukma, Collectorate Office, Sukma, Dist. Sukma (C.G.)
- 4) S.K.Choubey, presently posted as District Programme Officer, Department of Women and Child Development, Sukma, District Sukma (C.G.)

**WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA**

HIGH COURT OF CHHATTISGARH AT BILASPUR

(Hon. Mr. Justice Pritinker Diwaker)

Writ Petition (S) No. 6142 of 2014

PETITIONER

Smt. Jyoti Minj

VERSUS

RESPONDENTS

State of Chhattisgarh and others

Shri Amrito Das counsel for the petitioner.
Shri Y.S. Thakur Dy. AG for respondents 1 to 3/State.

**WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA**

ORDER
(26.03.2015)

With the consent of the parties the matter is heard finally.

2. Vide order dated 7.7.2014 (Annexure P-2) the petitioner who is working as District Programme Officer in the Woman and Child Development Department was transferred from Sukma to Balrampur. By the same order respondent No.4 was transferred in place of the petitioner at Sukma from Raipur. As despite the transfer order the petitioner was not relieved, she filed WPS No. 4946/2014 before this Court seeking direction to the State authorities to immediately relieve her to the place of her transfer. The said petition was disposed of by this Court on 19.9.2014 directing the State authorities to consider relieving of the petitioner from where she was transferred. Pursuant to the said

order of this Court, by order dated 29.10.2014 (Annexure P-4) the petitioner was relieved by the Additional Collector and on 5.11.2014 she gave her joining at Balrampur vide Annexure P-5. In the meantime, on 31.10.2014 order impugned (Annexure P-1) has been passed cancelling the relieving order of the petitioner dated 29.10.2014. In the impugned order it has been mentioned by the Collector that as the reliever of the petitioner had not joined at Sukma, question of relieving her from Sukma does not arise. It is this order which is under challenge in this petition.

3. Counsel for the petitioner submits that once the petitioner has been transferred from Sukma, State authorities are under obligation to relieve her to join at Balrampur irrespective of the fact whether reliever has joined at the said place or not. By order dated 7.7.2014 respondent No.4 was transferred from Raipur to Sukma but as he did not join there, the petitioner cannot be victimized. Counsel for the petitioner further submits that by virtue of relieving order dated 29.10.2014 and subsequent interim order passed by this Court in favour of the petitioner she is still working at Balrampur. In support of his submissions, counsel for the petitioner placed reliance on the decision of this Court in the matter of **Ms. Manisha Agrawal v. State of Chhattisgarh and others** passed in **WPS No. 5914/2014**.

4. On the other hand counsel for the respondents/State supports the order impugned and submits that as the reliever of

the petitioner had not joined at Sukma, she could not have been relieved and therefore the order under challenge is in accordance with law.

5. Heard counsel for the parties and perused the documents on record.

6. In the matter of **Sreedam Chandra Ghosh v. State of Assam and others** reported in (1996) 10 SCC 567 it has been held by the Apex Court as under:

"It is then contended that the transfer orders are to be enforced by the Government as per the rules in vogue and the High Court cannot interfere with these orders. We are unable to appreciate this contention also. When the Government views non-compliance of the transfer order as a serious indiscipline on the part of the erring officer and when the person complains of the non-compliance to the court, the court necessarily has to give effect to the order and give directions for enforcement thereof. Under these circumstances, we do not find any merit in the petition."

Further, considering the fact that pursuant to the direction issued in WPS No.4946/2014 the petitioner was already relieved for Balrampur on 29.10.2014 and she joined there on 5.11.2014, there was no occasion for the Collector to cancel the relieving order of the petitioner. Another aspect of the matter is that in the relieving order of the petitioner dated 29.10.2014 (Annexure P-4)



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it has been categorically mentioned that the relieving was approved by the Collector and thus once the Collector has approved the relieving of the petitioner, question of passing the impugned order cancelling the same does not arise.

7. Even the State authorities have not denied the fact that the relieving order of the petitioner was approved by the Collector. Yet another aspect of the case is that the petitioner has been transferred from one scheduled area to another scheduled area whereas as per the transfer policy, question of joining of the reliever will arise only when the government employee is transferred from the scheduled area to the non-scheduled area and here in this case it appears that the respondents have erred in law in ignoring this aspect of the matter.

8. In the aforesaid view of the matter, this Court is of the opinion that the order impugned (Annexure P-1) cancelling the relieving of the petitioner is bad in the eye of law and the same is liable to be quashed. It is hereby quashed.

9. Petition allowed.

Sd/-
Pritinker Diwaker
Judge

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