

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 253 of 2015**

Ajay Upadhyay, Aged about 53 years, S/o Late Shri Devsharan Lal Upadhyay,
Posted as Patwari in Tehsil Raipur, P.S. Raipur District Raipur, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, Through the Secretary, Department of Revenue and Disaster Management, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur.
2. Collector, Raipur, District Raipur Chhattisgarh.
3. Sub Divisional Officer, Tehsil Raipur, District Raipur Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Jitendra Pali, Advocate.
For Respondent/State	:	Shri J.K.Gilda, Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Prashant Kumar Mishra, J.

Order on Board**Per Navin Sinha, Chief Justice****15/05/2015**

1. The present appeal arises from order dated 30.3.2015 dismissing Writ Petition (S) No. 1100 of 2015.
2. Learned Counsel for the Appellant makes a very short submission that once an order for transfer had been issued and acted upon by joining the transferred place of posting, the order had spent itself and was no more in existence.
3. The question for cancellation of an order not in existence does not arise. The only option available to the authorities was to issue any fresh orders. We may appropriately refer to two Bench decisions in 2000 (2) PLJR 332 (Smt. Jyotsna Kumari v. The State of Bihar) and 2000 (3) PLJR 139 (Mahmood Azam Siddique v. The State of Bihar) observing as follows:

"12. Now it is a settled law that once an order of transfer issued and acted upon, it is spent its force. Thereafter, no substantive part remains to be stayed or rescinded and any order to that effect is redundant."

4. In view of above, the order dated 20.3.2015 issued by the Deputy Collector and also the order under appeal are set aside. This shall be without prejudice to the rights of the Respondents afresh in accordance with law.
5. The appeal is allowed.

Sd/
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(Prashant Kumar Mishra)
JUDGE

Amit