

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 284 of 2015**

Smt. Kalpana Tiwari W/o V.N.Tiwari, aged about 54 years, Occupation Service, Presently posted and working as Upper Division Teacher, Government Boys Middle School, Khaparganj, R/o Near Hardevlal Mandir, Gole Bazar, Bilaspur, Tahsil and District Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh through the Secretary, Department of School Education, Mahanadi Mantralaya, Naya Raipur, Post Office and Police Station Naya Raipur, District Raipur, Chhattisgarh.
2. District Education Officer, Bilaspur, District Bilaspur, Chhattisgarh.
3. Block Education Officer, Bilha, District Bilaspur Chhattisgarh.
4. Block Education Officer, Kota, District Bilaspur, Chhattisgarh.
5. Chandrika Prasad Pandey Upper Division Teacher, Government Middle School, Bandhwapara, Bilaspur, District Bilaspur Chhattisgarh.
6. Chief Executive Officer, Zila Panchayat, Bilaspur, District Bilaspur Chhattisgarh.

---- Respondents

For Appellant	:	Shri Malay Shrivastava Advocate.
For Respondents 1 to 4	:	Shri B. Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice**Hon'ble Shri P. Sam Koshy, J.****Judgment on Board****Per Navin Sinha, Chief Justice****14/05/2015**

1. The present appeal arises from order dated 7.4.2015 in Writ Petition (S) No. 1179 of 2015. The Learned Single Judge declined to interfere with order for transfer of the Appellant from Government Boys Middle School, Kaparganj to Government Middle School, Karehapara, Tahsil Kota.
2. Earlier, the Appellant had preferred Writ Petition (S) No. 4554 of 2014 disposed on 3.9.2014. While declining to interfere with the order for transfer but noticing the grievance that according to the rationalisation policy

preference was to be given to female teachers during counselling over male teachers, liberty was granted to represent. The Appellant represented on 12.9.2014 taking that specific ground in column 5 and 6 of the representation.

3. Learned Counsel for the Appellant submitted that she belongs to the Government School cadre and was not a panchayat teacher. Therefore the Chief Executive Officer of the Zila Panchayat was not competent to order rationalisation with regard to her.

4. We find no substance in the same for reasons discussed by us today in Writ Appeal No. 279 of 2015 (Bhogchandra Tamrakar v. State of Chhattisgarh).

5. It was next submitted that in the representation, the Appellant had taken a specific ground under the rationalisation policy for preference to female teachers during counselling. That aspect of the matter has not been dealt with in the impugned order rejecting the representation. The order is therefore arbitrary.

6. Learned Counsel for the State has opposed the appeal submitting that the representation has been considered and disposed.

7. In our opinion, the only question arising for our consideration is if the representation has been considered in accordance with law. If the Government issues a circular, it is required to be followed. The authorities are not at liberty to follow the circular or ignore it at their whims. Administrative circulars do not have binding force of a statute but nonetheless it binds the Government and its functionaries. Deviation from the circular is undoubtedly permissible and it does not have the rigidity of a statute. But if there is deviation from the circular, reasons have to be mentioned. In absence of reasons, it will remain open for the authorities concerned to follow or not to follow the circular at individual whims. The impugned order does not mention any reason or show consideration of the ground taken by the Appellant from the rationalisation

policy with regard to preference to female teachers during conselling.

8. We therefore direct the District Magistrate, Bilaspur to examine the grievances of the Appellant, to the limited extent only as directed by us, and pass a reasoned and speaking order. Since the matter relates to transfer which has inherent urgency, the District Magistrate shall pass fresh appropriate orders within a maximum period of 10-14 days from the date of receipt and/or presentation of a copy of this order.

9. The writ appeal stands disposed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P.Sam Koshy)
JUDGE