

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 302 of 2015**

Rajendra Kumar Jangde son of Shri Bishatram Jangde, aged about 53 years, Occupation-Service, Assistant Grade II in Naveen Government College, Mainpur, Resident of village Mainpur, Police Station & Tehsil Mainpur, District Gariyaband Chhattigarh.

---- Petitioner**Versus**

1. State of Chhattisgarh, Through: Secretary, Department of Higher Education, Mantralaya, Mahanadi Bhawan, Naya Raipur.
2. The Commissioner of Higher Education, Block C-30, INdrawati Bhawan, Naya Raipur, Chhattisgarh.
3. Mr. Dharmendra Singh Yadav, Assistant Director, Higher Education, Block C-30, Indrawati Bhawan, Naya Raipur, Chhattisgarh. Presently posted to Assistant Professor, Naveen Govt. Radha Bai Girls College, Raipur, Chhattisgarh.
4. Smt. Ramni Kamlakshan, Assistant Grade 2, Govt. DB Girls PG College, Raipur, Chhattisgarh, presently posted at J. Yoganandam CG PG Government College, Raipur.
5. Govt. DB Girls PG College, through Principal, Raipur, Chhattisgarh.
6. Govt. J. Yoganandam, Chhattisgarh P.G. College, through Principal, Raipur, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Raza Ali, Advocate.
For Respondents No. 1, 2, 5 & 6	:	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****09/07/2015**

1. The present appeal arises from order dated 21.4.2015 dismissing Writ Petition (S) No. 1474 of 2015 awarding cost of Rs. 10,000/- to be paid to the Chhattisgarh High Court Bar Association. In the event of failure to deposit the

cost, the Tehsildar was directed to recover it as arrears of land revenue.

2. Learned Counsel for the Appellant submits that he confines his submission to imposition of cost only as being unjustified in the facts of the case.

3. Learned Counsel for the State submits that the Learned Single Judge has adequately indicated why imposition of cost was ordered.

4. We have considered the submissions.

5. The Appellant originally came to this Court in Writ Petition (S) No. 3373 of 2014 questioning his transfer from Gariyaband to Kanker by order dated 10.7.2014. Disposing the writ application on 24.7.2014, holding that transfer is an incidence of service, liberty was granted to represent in respect of any personal difficulties that the Appellant may have. The representation was required to be disposed within four weeks of its presentation.

6. The Appellant filed representation stating that due to personal reasons, he may be allowed to remain at Gariyaband. Non-consideration of the same led to institution of Contempt Case (C) No. 321 of 2014. It was disposed on 28.11.2014 with liberty to file a fresh representation which was then decided and he was allowed to remain at Gariyaband.

7. The Appellant then filed a fresh writ petition giving rise to the appeal raising grievance that Respondent No. 4 had wrongly been posted at Raipur and the Appellant should have been considered for posting at Raipur. Respondent No. 4, who had been transferred from Raipur to Tilda was allowed to come back to Raipur even though there was no vacancy there. The Appellant was also desirous for posting at Raipur.

8. In these circumstances, the Learned Single Judge was of the opinion that it was a fit case for dismissal of the writ petition with cost of Rs. 10,000/-

to be paid to the Chhattisgarh High Court Bar Association.

9. On 15.6.2015, we had desired to hear the Chhattisgarh High Court Bar Association in the matter. On 25.6.2015, the Chhattisgarh High Court Bar Association requested for accommodation to address the Court which was granted. Due to intervening elections of the Chhattisgarh High Court Bar Association, we again adjourned the matter on 7.7.2015 for serving a copy of the order on the newly elected Secretary for assisting us. The order was served on 7.7.2015 itself. None is present on behalf of the Chhattisgarh High Court Bar Association to assist us.

10. Written submissions to assist us in the matter have been filed by Shri Kanak Tiwari, Senior Advocate. We express our gratitude to him for the same.

11. Since we have not received assistance from the Chhattisgarh High Court Bar Association, we leave the question open for consideration in another case if costs can be awarded in favour of the High Court Bar Association as we find that the present appeal can be disposed of on other grounds.

12. The cause title describes the Appellant as holding the rank of Assistant Grade II. We find from the records that the pay-scale of an Assistant Grade II is Rs. 5200-20200/- on the grade pay of Rs. 2400/-. The costs are virtually half of his salary. The Appellant, instead of concentrating on his job appears to be more interested in litigation given the regularity with which he is coming to Court. Even if we were not to look into his earlier writ petition followed by the Contempt Petition, he has already incurred sufficient cost in the subsequent writ petition and appeal with the direction to deposit Rs. 10,000/- before the Registrar General ordered by us.

13. We are of the opinion that by now, he must have realized the folly of his own action and we also express the pious hope that henceforth he will concentrate more on discharge of his duties as a Government servant rather

than consider it a licence to litigate merely because he may have security of tenure. Should he not learn from his present mistakes, obviously he will have to bear the consequences in future.

14. We set aside the order under appeal in so far as imposition of the cost only is concerned. The Registrar General shall return the demand draft deposited by the Appellant to him or to his Counsel under the receipt obtained.

15. The appeal is allowed only to the extent indicated above.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE