

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5495 of 2014

- G.R. Patley Aged About 52 years, S/O Late Rajaram Patley, R/O Near Church Of God. P.I.L. Road Bhojpur, Thana & Tahsil Champa, Distt. Janjgir

---- Petitioner

Versus

1. The State Of Chhattisgarh, Through its Secretary, Higher Education Department Sanchalanalay, Raipur
2. Up Sachiv, Higher Education Department, Sanchalanalay, Raipur
3. B.M.Dandekar Govt. Naveen Mahavidhyalaya, Distt. Balrampur

---- Respondents

For Petitioner	: Shri Parag Kotecha, Advocate
For Respondent/State	: Shri P.K. Bhaduri, Government Advocate
For Respondent No.3	: Shri Pallav Mishra, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

27/04/2015

1. Petitioner is working as Assistant Professor (Commerce). By the impugned order he has been transferred from Government Mayurdhwaj Mahadani Raja P.G. College, Champa, District Janjgir-Champa to Government Naveen Mahavidyalaya, Shankargarh, District Balrampur.
2. Challenge to the transfer order is made on the ground that the same has been issued during ban period; the petitioner is currently assigned the project funded by the University Grant Commission; his wife Smt. Pramila Patley is posted as Upper Division Teacher at Janjgir-Champa and lastly that respondent No. 3 has been transferred at the petitioner's place at his own request, therefore, the impugned order is *malafide*; just to accommodate the respondent No.3.
3. Learned State counsel and learned counsel for respondent No.3 as well, would submit that the impugned order has been passed in coordination, therefore, the prohibition of not making transfer during ban period would not apply. They

would also submit that the project funded by University Grant Commission has already come to an end and there is no indefeasible right in a government servant to remain posted at a place where his/her spouse is posted. According to them, the posting of respondent No.3 at his own request would not make the impugned order *malafide* or violative of any statutory provision.

4. Considering the limited scope of interference/judicial review in matters concerning the transfer of a government servant as held by Supreme Court in the matter of *E.P. Royappa v. State of and another* (1974) 4 SCC 3, *Shilpi Bose (Mrs.) and others v. State of & another* (1991) Supp 2 SCC 659, *State of and another v. S.S. Kourv and others* (1995) 3 SCC 270, *Mohd. Masood Ahmad v. State of U.P. & Others* (2007) 8 SCC 150, *Chief Commercial Manager, South Central Railway, Secunderabad & Others v. G. Ratnam & Others* (2007) 8 SCC 212 and *Airports Authority of India v. Rajeev Ratan Pandey & Others* (2009) 8 SCC 337, it is for the State Government to examine the grounds raised by the petitioner vis-a-vis the existence of administrative exigency for transferring the petitioner and the respondent No.3.

5. In view of the above, the writ petition is disposed of with direction that in the event the petitioner files a representation before the concerned competent authority within a period of one month from today, the said authority shall consider and decide the same in accordance with law and on its own merits, as early as possible preferably within a period of three months from the date of receipt of representations along with copy of this order.

6. It is made clear that this Court has not expressed any opinion on the merits of the case and the respondent-authorities shall decide the representation, on its own merits, strictly in accordance with law, without treating any observation made in this order, as opinion on the merits of the case.

JUDGE