

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2404 of 2015

- Tejaswi Nath Yogi, aged 36 years, S/o Late Shri Raj Nath Yogi, Assistant Teacher, Govt. Primary School, Korgunda, Janpad Panchayat, Doundi-Lohara, District Balod (C.G.)

---- Petitioner

Versus

- The State Govt. of Chhattisgarh Through The Secretary, Panchayat, Ministry Mantralaya, Mahanadi Bhavan, P.S. Rakhi, New Raipur Chhattisgarh.
- Chief Executive Officer, Janpada Panchayat, Dondi Lohara, District Balod, Chhattisgarh.
- Yaspal Singh, Assistant Teacher, Govt. Girls Primary School, Badgaon, Block Dondi Lohara, District Balod (C.G.)
- Priyojna Nideshak, Zila Gramin Vikas Abhikaran, District Balod Chhattisgarh.

---- Respondents

For Petitioners
For Respondent/State

Mr. Ajay Shrivastava, Advocate
Mr. Shashank Thakur, Government
Advocate

S.B.: Honb'le Mr. Justice Prashant Kumar Mishra

Order On Board

06/07/2015

Heard finally with the consent of learned counsel for the parties.

2. The petitioner was transferred from Hitapathar to Korguda vide order dated 29.10.2014 and the said order was executed by the petitioner by joining at the transferred place. By another order dated

03.11.2014, the executed transfer order was cancelled, however, the petitioner continued to remain posted at the transferred place, where, he had already joined pursuant to the first order. By the present impugned order dated 19.06.2015, the petitioner has again been transferred at his previous place of posting i.e. Hitapathar.

3. It is argued by learned counsel for the petitioner that the impugned order has the effect of cancelling the executed transfer order, which is not permissible in law. He would further submit that the impugned order clearly reflects that the same has been passed at the instance of Member of Legislative Assembly, therefore, it is malafide and based on extraneous considerations.

4. Having heard learned counsel for the petitioner and on perusal of the impugned order, it would appear that it is a fresh posting order and not an order cancelling the previously executed transfer order. The earlier transfer order dated 29.10.2014 was cancelled on 03.11.2014 yet the petitioner continued at the transferred place. Therefore, depending upon the administrative exigency, the authorities have passed a fresh posting order.

5. Merely because the transfer order refers to the intervention of local MLA, the same would not become arbitrary in view of the law laid down by the Supreme Court in the matter of **Mohd. Masood Ahmad vs. State of U.P. and others, (2007) 8 SCC 150,** wherein, it has been held that the people's representative has authority and power to recommend for transfer of a government servant within his constituency.

6. Even otherwise, the petitioner has been posted from one place to another within the same block and thus, the petitioner's posting is not at a far away place.

7. For the foregoing reasons, this Court does not find any substance in the writ petition. The same is liable to be and is hereby dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

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