

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2617 of 2015**

- Phool Singh Dhurve S/o Jan Singh Dhurve Aged About 50 years R/o Kantipur, Post Biharpur, P.S. Biharpur, Civil And Revenue District Surajpur Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary School Education Department Mahandi Bhawan, Mantralya, Capital Complex Naya Raipur District Raipur Chhattisgarh
2. Director, Public Education Directorate Chhattisgarh Raipur Civil And Revenue District Raipur Chhattisgarh
3. District Education Officer Surajpur Civil And Revenue District Surajpur Chhattisgarh
4. Naresh Kumar Gurjar Head Master Government Primary School Kudargarh, Block Odgi, District Surajpur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Manoj Paranjpe, Advocate
For Respondents/State	:	Shri Sangharsh Pandey, Dy. GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****23/07/2015**

1. Petitioner has assailed the legality and validity of the order passed by the District Education Officer, Surajpur (for short 'the DEO'), posting respondent No.4 as Assistant Block Education Officer in place of the petitioner.

2. Shri Paranjpe, learned counsel for the petitioner would make two fold submission, *firstly*; the petitioner having been transferred as Assistant Block Education Officer by the State Government vide order dated 30.06.2008, the DEO has no jurisdiction to change the place of posting and *secondly*; respondent No.4 also not holding a substantive post of Additional Block Education Officer, the petitioner cannot be replaced by such a person.
3. Admittedly, neither the petitioner nor respondent No.4 are holding post of Assistant Block Education Officer in substantive capacity. The order passed by the State Government was only a transfer order, not creating any right in petitioner's favour to remain posted as Assistant Block Education Officer. In the impugned order it is mentioned that the petitioner shall handover the charge of the office of Assistant Block Education Officer to respondent No.4 and shall join at his original place of posting.
4. In the considered opinion of this Court, in the absence of any right in petitioner's favour to hold the charge of Assistant Block Education Officer, a petition under Article 226 of the Constitution of India to allow him to remain posted as Assistant Block Education Officer is not maintainable. It is settled law that writ Court only enforces a legal or constitutional right of a person.
5. Even though, petitioner's posting as Assistant Block Education Officer was directed by the State Government, in the absence of he having holding the post in the substantive capacity, the DEO is not denuded

of its power of administering the department within his district. The DEO is equally competent to posting his sub-ordinate officers within his area of jurisdiction for smooth functioning of the department. The impugned order is a result of pure administrative exercise without adversely affecting any of the right or service condition of the petitioner.

6. For the foregoing, there is no substance in the writ petition. It fails and is hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra

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