

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2880 of 2015

1. Smt. Pranita Dewangan W/o Mr. Praveen Dewangan Aged About 38 Years Assistant Teacher (Panchayat), Govt. Primary School, Chandrasoor, Block- Magarload, Distt- Dhamtari (Chhattisgarh)
2. Smt. Roshni Sen W/o Lekhram Aged About 39 Years Assistant Teacher (Panchayat) Govt. Boys Primary School, Bhendri, Block- Magarload, District- Dhamtari (Chhattisgarh)
3. Smt. Benu Netam W/o Champshwar Dhruv Aged About 38 Years Assistant Teacher (Panchayat) Govt. Primary School, Bodra, Block- Magarload, District- Dhamtari (Chhattisgarh)
4. Pratap Kumar Nishad S/o Madanlal Nishad Aged About 40 Years Assistant Teacher (Panchayat) Govt. Primary School, Bhaluchuwa, Block- Magarload, District - Dhamtari (Chhattisgarh)
5. Devesh Sahu S/o Bhow Ram Aged About 41 Years Assistant Teacher (Panchayat) Govt. Primary School, Belora, Block- Magarload, Distt.- Dhamtari (Chhattisgarh)
6. Chandra Shekhar Sahu S/o Bhikham Sahu Aged About 43 Years Assistant Teacher (Panchayat) Naveen Primary School, Bastipara, Sonpari Block- Magarload, Distt- Dhamtari (Chhattisgarh)
7. Ashok Kumar Sahu S/o Sadaram Sahu Aged About 40 Years Assistant Teacher (Panchayat) Govt. Primary School, Songa Block- Magarload, District- Dhamtari (Chhattisgarh)
8. Surendra Singh Thakur S/o Ramsaran Singh Aged About 42 Years Assistant Teacher (Panchayat) Govt. Primary School, Motimpur, Block- Magarload, District- Dhamtari (Chhattisgarh)
9. Lokesh Kumar Sahu S/o Budharuram Sahu Aged About 40 Years Assistant Teacher (Panchayat) Govt. Primary School, Parsatthi, Block- Magarload, District- Dhamtari (Chhattisgarh)
10. Gajendra Kumar Sahu S/o Keshavram Sahu Aged About 43 Years Assistant Teacher (Panchayat) Govt. Primary School, Sargi Block- Magarload, District- Dhamtari (Chhattisgarh)

---- Petitioners

Versus

1. State Of Chhattisgarh Through : The Chief Secretary, Mahanadi Bhawan, Naya Raipur, District- Raipur- (Chhattisgarh)
2. Collector Dhamtari, District- Dhamtari - (Chhattisgarh)
3. District Education Officer, Dhamtari, District- Dhamtari - (Chhattisgarh)
4. Block Education Officer, Magarload, District - Dhamtari - (Chhattisgarh)

---- Respondents

For Petitioners	Shri Mohd. Afroj, Advocate
For Respondent/State	Shri Y.S. Thakur, Dy. AG

Hon'ble Shri Justice Prashant Kumar Mishra

C A V Order

28/08/2015

Heard learned counsel for the parties.

1. This joint writ petition has been preferred by 10 petitioners, who are working as Assistant Teacher (Panchayat) to challenge their rationalization posting in different primary schools situated at Block Nagri. The petitioners are presently posted at different primary schools in Block Magarlod.
2. Learned counsel for the petitioners would submit that the impugned order is *mala fide* and arbitrary inasmuch as the petitioners have been posted to a remote place. He would also submit that the petitioners have preferred representation, which has not been decided.

3. Ordinarily, a joint writ petition challenging the transfer order is not entertained, because each petitioners would raise a different ground to assail the transfer order.
4. Be that as it may, the order impugned has been passed in exercise of implementation of rationalization policy of the Department of School Education. Under the said policy, teachers, who are in excess in a particular school, are posted to a different school, where there is requirement of teachers.
5. This Court in **Gajendra Hariharno and Others v. State of Chhattisgarh and Others**¹ and other connected matters, after placing reliance on various decisions of the Supreme Court, held thus :

8. It appears the decision has been taken at the highest level in the Government after obtaining relevant data about the number of teachers working in the Department; the ratio of teacher-pupil; and the requirement of teachers in rural areas.
9. On a careful reading of the contents of the policy, it no where appears that the policy has been framed without application of mind or to achieve any oblique motive. In fact, the policy has been framed to facilitate teaching in the schools so that the poor students who study in Government schools/Panchayat Schools should obtain quality education, as intended by the legislature while enacting the Act, 2009.

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xxx	xxx	xxx

13. In matters concerning administration the Court should be loathe to interfere when the

1 WPS 3200 of 2014 (decided on 22-7-2014)

Government is acting *bona fidely* to achieve the pious object of providing teachers in the rural areas and less teacher schools in the urban areas.

14. The argument concerning violation of set up of the department, contravening the provisions of the Act, 2009 or the Chhattisgarh Non-Gazetted Class III Education Service (School Level Service) Recruitment and Promotion Rules, 2008 (for short 'the Rules, 2008') have been made without elaborating the same as to in what manner the same have been violated. The petitioners have also not pointed out by referring to any particular provision of the Act or the Rules to challenge the policy.

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16. Similarly, even if it is assumed that the impugned policy would ultimately have the effect of transfer/posting of teachers, the same cannot be struck down because it is within the exclusive domain of the Government to direct transfer/posting of teachers. The impugned policy is only guidelines without having any statutory force. It cannot be treated as executive instruction under Article 166 of the Constitution so that the Court can judiciously review the contents of the policy on the approved parameters on which judicial review is permissible.

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18. Once the administration has felt that there are concentration of teachers in particular areas be it urban area or in a particular school, it is for them to decide the ways and means to rationalize the number of teachers and the writ Court has no power of judicial review to struck down the policy merely because large number of teachers would be effected and will be shifted to other schools by way of implementing the policy. It is settled law that a

Government employee does not have any statutory or constitutional right to remain posted at a particular place.

6. The impugned order has pious object to achieve i.e. to post teachers in remote areas, where the students are suffering because of lack of teachers.
7. As a sequel, the writ petition sans merit, is liable to be and is hereby dismissed at the motion stage itself.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Gowri