

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3667 of 2015

1. Chakradhar Singh Rathore S/o Gulab Singh Rathore, Aged About 52 Years Working As Head Master, Govt. Primary School Devari, Block Bamhindih, District Janjgir Champa Chhattisgarh R/o Village Saragaon, P.S. Saragaon, District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh
2. Commissioner, Bilaspur Division, District Bilaspur Chhattisgarh
3. Collector, District Janjgir Champa Chhattisgarh
4. District Education Officer, District Janjgir Champa Chhattisgarh
5. Block Education Officer, Bamhindih, District Janjgir Champa Chhattisgarh

---- Respondent

For Petitioner	Shri C.K. Kesharwani, Advocate
For Respondent/State	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

C A V Order

03/11/2015

1. Petitioner is aggrieved by order passed by the Collector, Janjgir-Champa on 20-7-2015 whereby he has been transferred from the post of Head Master, Government Primary School, Devri, Block Bamnidih to Government Primary School, Dotma, Block Jaijaipur.

2. It is argued that the petitioner's wife namely; Smt. Shiv Kumari is suffering from gynecological disease and is obtaining treatment at the District Hospital, Janjgir, therefore, petitioner's transfer, at this stage, would seriously disturb the obtainment of medical facility at the District Hospital. It is also put forth that the petitioner is the Secretary of Chhattisgarh Shikshak Sangh, Block Bamnidih, therefore, he is exempted from transfer as per the policy of the State Government. The Parliamentary Secretary has also recommended for cancellation/amendment of the transfer, but the same has not been considered.
3. Per contra, learned counsel appearing for the State would submit that the petitioner's representation has already been considered and decided by the Commissioner, Bilaspur Division, therefore, further interference is not called for.
4. A reading of the order passed by the Commissioner, Bilaspur Division, would make it clear that the above-stated grounds for challenging the transfer has not at all been considered, particularly the ground that the petitioner being the Secretary of the recognized employees association he is exempted from transfer.
5. Considering the entire facts situation of the case, it appears that the Commissioner, Bilaspur Division, has passed the order dated 22-9-2015 (Annexure – P/3) without considering the grounds raised by the petitioner, therefore, it deserves to be reconsidered. Accordingly, the matter is remitted back to the Commissioner, Bilaspur Division, for

taking the decision afresh after dealing with each of the ground raised by the petitioner.

6. The petitioner may submit a fresh detailed representation before the Commissioner, Bilaspur Division, within a period of 10 days from today and thereafter, the Commissioner, Bilaspur Division shall consider and decide the same, in accordance with law and on its own merits, as early as possible preferably within a period of two months.
7. It is directed that during pendency of the fresh representation to be preferred by the petitioner the effect and operation of the transfer order, in respect of the petitioner, shall remain stayed and the petitioner shall be allowed to continue as Head Master, Government Primary School, Devri, Block Bamnidih.
8. Accordingly, the writ petition is disposed in the manner indicated above.

Sd/-

Judge

Gowri

Prashant Kumar Mishra