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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2580 of 2015**

- Pratibha Tiwari W/o Alok Tiwari, Aged About 33 years R/o Shanti Nagar, Nagar Panchayat, Sakri, District Bilaspur (Chhattisgarh)

---- Petitioner**Versus**

1. The State of Chhattisgarh, Through Secretary, Panchayat And Rural Development Department, Sanchalanalay, Raipur
2. Chief Executive Officer, Jila Panchayat, District- Bilaspur
3. District Education Officer, Bilaspur
4. Nagar Panchayat Sakri, Through Its Chief Municipal Officer, Nagar Panchayat Sakri, Bilaspur

---- Respondents

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

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****20/07/2015**

1. Petitioner has preferred this writ petition seeking a direction to the respondents to consider her representation on medical grounds to transfer her to any place out of five options given in the representation dated 19-11-2014 and further to quash the order/letter dated 4-3-2015 (Annexure P-7).
2. It appears, the petitioner is working as Lecturer (Panchayat) and is presently posted in the Government Higher Secondary School, Khamhriya, Block Masturi, Bilaspur. She had earlier preferred a writ

petition bearing WP (S) No.6601/2014 seeking similar direction. This Court by order dated 23-12-2014 disposed of the writ petition in the following terms:-

“The petitioner has filed this petition for a direction to respondents to transfer the petitioner to any of the places as per her option.

Learned counsel for the petitioner submits that the petitioner is undergoing pregnancy and for that she requires proper care and treatment and therefore, she applied for consideration of representation and also applied for transfer to convenient place. He further submits that the petitioner is seeking a direction to respondents to post at a particular place. Such direction cannot be issued by the writ Court. However, looking to the peculiar condition of the petitioner, the authority at its instance shall consider grant of proper maternity leave as per rules and if thereafter, need arises the petitioner's representation may also be considered by the competent authority keeping the administrative exigency, the petitioner's condition and other relevant circumstances. The decision in that regard shall be taken within a period of three weeks from the date of submission of copy of this order.

Accordingly, the petition is disposed off.”

(emphasis supplied)

3. On a reading of the above order passed by this Court, it would be apparent that this Court has already observed that the direction prayed for by the petitioner cannot be issued by the writ Court. Having observed thus, this Court directed the respondents to consider petitioner's representation, which has now been rejected by the order Annexure P-7.
4. The impugned order Annexure P-7 would reveal that the representation has been rejected on account of the fact that posts are not available at the place where the petitioner is seeking transfer.

5. It is settled law that transfer and posting of a Government servant is the exclusive domain of the State Government and the same is a purely administrative exercise. Writ Court has no jurisdiction to enter into that arena which is reserved for the Government. If this Court initiates entertaining petitions of this nature, hundreds of employees would throng to this Court encouraging frivolous litigation. If an employee has no right to be transferred or posted at a place of his choice, this Court in exercise of power under Article 226 of the Constitution of India has no jurisdiction to entertain such plea because in the absence of any right, the same is not enforceable.
6. In the matter of **A.P. SRTC and Others Vs. G. Srinivas Reddy and Others¹**, it has been held by the Hon'ble Supreme Court that a direction to consider and decide the representation is issued by the High Court in exercise of powers of judicial review. It has also been held that the High Court should not issue directions where unscrupulous petitioners with the connivance of pliable authorities have misused the direction “**to consider**” issued by the Court. Existence of a legal right and the corresponding statutory obligation on the authorities is the pre-condition for exercise of judicial review to issue a direction to consider and decide the representation.
7. Petitioner has not placed before this Court any statutory prescription binding the authorities to consider her prayer for posting at the same place/Block where her husband is posted. Moreover, no Govt. employee can claim to be posted or to remain posted at a particular place, therefore, in view of the law laid-down by the Supreme Court in the

¹ (2006) 3 SCC 674

matter of **A.P. SRTC and Others Vs. G. Srinivas Reddy and Others (Supra)**, this Court find itself unable to issue any direction for deciding the representation filed by the petitioner.

8. For the aforementioned reasons, the writ petition has no substance. It fails and is hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra

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Headlines

WP S No.2580/2015

Direction to consider representation for posting at the place of choice cannot be issued under Article 226 of the Constitution of India.