

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3894 of 2015**

Vijay Panda, son of Shri Lingraj Panda, aged about 40 years, working as Shikshak Nagriya, Govt. Boys Middle School, Gharghoda, District Raigarh, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through Secretary, Urban Administration and Development, Mantralaya, Mahanadi Bhawan, P.S. Rakhi, Tahsil Aarang, Naya Raipur, District Raipur, Chhattisgarh
2. Director, Urban Administration and Development, Mantralaya, Indrawati Bhawan, P.S. Rakhi, Tahsil Aarang, Naya Raipur, District Raipur, Chhattisgarh
3. Chief Municipal Officer, Nagar Panchayat, Gharghoda, District Raigarh, Chhattisgarh
4. District Education Officer, Raigarh, District Raigarh, Chhattisgarh
5. Assistant Commissioner, Tribal Welfare Department, Raigarh, District Raigarh, Chhattisgarh

---- Respondents

For Petitioner	:	Mr.C.J.K.Rao, Advocate
For Respondents	:	Mr.Gary Mukhopadhyay, Dy.Govt. Advocate
For Caveater	:	Mr.B.D.Guru, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****29/10/2015**

1. In a writ petition filed by the petitioner, this Court by order dated 22.6.2015 directed the respondent No.3/Chief Municipal Officer, Nagar Panchayat, Gharghoda to take necessary steps to fill up the post of Lecturer (Nagar Panchayat) in its establishment, if the post is still lying vacant, by considering all eligible candidates in accordance with the gradation list, as per rules within a period of 3 months from the date of submission of certified copy of this order.

2. Now respondent No.3 has passed the order dated 14.9.2013 (Annexure P/1) holding that by order dated 20.4.2015 the State Government has already taken back the post and post has been transferred to the Department of Tribal Welfare under the instructions of the Government and as such, there is no such post lying vacant.

3. The aforesaid order has been challenged by the petitioner in this writ petition questioning the same is bad and unsustainable in law.

4. It is well settled that abolition/creation of the post is discretion of the Government. It is also well settled that if the post is not available with the particular institution, no selection/appointment can be held for that post, which is unavailable.

5. I do not find any illegality in the order of the respondent No.3 holding that no process of recruitment can be held in absence of vacant post.

6. Consequently, the writ petition being without substance is liable to and is accordingly dismissed. No order as to cost(s).

**Sd/-
(Sanjay K. Agrawal)
JUDGE**

B/-