

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 948 of 2015

- Dr. S.K. Joel S/o M. Joel Aged About 57 Years R/o C -120, Rani Durgawati Ward, Near Church, Amlideeh Road New Purena, Raipur, Police Station And Post Raipur, Civil And Revenue District Raipur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Principal Secretary, Health & Family Welfare Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur District Raipur Chhattisgarh
2. Director, Ayurved Yog And Prakritik Chikitsa, Unani, Siddha And Homeopathy (Ayush), Raipur, District Raipur Chhattisgarh
3. Dr. Arvind Kumar Maravi, - Charge District Ayurved Officer, Mahasamund, District Mahasamund Chhattisgarh

---- Respondent

For Petitioner	Mr. Manoj Paranjpe, Advocate
For Respondents/State	Mr. Dheeraj Wankhede, Government Advocate .

Hon'ble Shri Justice Prashant Kumar Mishra[

Order On Board

15/9/2015

Heard finally with the consent of learned counsel for the parties.

(2) The petitioner is working as Senior Ayurved Medical Officer and presently posted at Abhanpur, District Raipur. He would assail the order (Annexure P/1), by which, his representation against the order dated 30.06.2014, whereby, the respondent No.3 was handed over the current charge of the office of District Ayurved Officer, Mahasamund has been rejected.

(3) Relying on the Circulars issued by the State Government on 04.08.2011 and 14.07.2014, learned counsel for the petitioner would submit that while assigning the current charge, seniority has to be accorded due preference, however, despite the fact that respondent No.3 is junior to the petitioner, he has been preferred for handing over the current charge of District Ayurved Officer, Mahasamund.

(4) In the return filed by the respondent/State, it has been stated that under the reservation roster, the post of District Ayurved Officer, Mahasamund is falling under the Scheduled Tribe category, therefore, respondent No.3 has been assigned the current charge of the post of District Ayurved Officer. However, the respondent has not referred to any such decision of the State Government whereby while assigning the current charge, the reservation roster is to be followed. There are only two administrative orders, dealing with the subject, issued on 4.8.2011 and 14.7.2014.

(5) Moreover, it is also to be seen that the order (Annexure P/1) has been passed by the State Government without assigning any reason.

(6) In the considered opinion of this Court, in view of the Circulars issued by the State Government on 04.08.2011 and 14.07.2014, the matter is not purely administrative, wherein, the respondents are not obliged to assign any reason. Once the State Government has declared

the principle, on which, the current charge would be handed over to any officer, the same has to be complied with unless there are compelling administrative reasons, which render the senior incapable or inefficient for handing over the current charge in the interest of administration.

(7) Considering the entire facts' situation of the case, more particularly the Circulars dated 4.8.2011 and 14.7.2014 and the orders passed by this Court in the matters of **Shrawan Kumar Singh vs. State of Chhattisgarh and others** (W.P.(S) No.35 of 2013, decided on 28.06.2013) and **Nidhan Singh Kushwaha vs. State of Chhattisgarh and others** (W.P.(S) No.1376 of 2010, decided on 23.06.2011), the concerned respondents are directed to consider the petitioner's representation afresh and decide the same by a speaking order. Let fresh order be passed within a period of 2 months from the date of receipt of the certified copy of this order.

(8) With the aforesaid observations, the writ petition stands finally disposed of.

Sd/-

Judge

(Prashant Kumar Mishra)

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