

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1461 of 2015

- Krishna Kumar Tiwari Aged About 51 years S/o Janak Ram Tiwari
Govt. Boys Middle School, Bharni, Block Takhatpur, Distt. Bilaspur

---- Petitioner

Versus

1. The State Of Chhattisgarh, Through Its Secretary, Education
Department, Mahanadi Bhawan, Sanchalanalay, Raipur
2. District Education Officer, Bilaspur
3. Chief Executive Officer, District Panchayat, Bilaspur
4. The Collector Bilaspur

---- Respondents

For Petitioners	: Shri Parag Kotecha, Advocate
For Respondent/State	: Shri Arvind Dubey, P.L.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

06/07/2015

1. By order dated 23/07/2014 petitioner was transferred from Boys Middle School, Bharni to Middle School, Morhe against which the petitioner preferred W.P.(S) No. 5977/2014, which was withdrawn with liberty to file a representation.
2. Petitioner's representation has now been rejected by the Jila Panchayat.
3. Shri Kotecha, learned counsel for the petitioner would submit that in the previous order passed by this Court a direction for deciding the representation was made against the District Education Officer, under whose signature the transfer order was issued, however, the representation has been rejected by the Jila Panchayat, therefore, the same is illegal.

4. When the Government undertakes rationalization of employees and in that course it passes orders of posting, the said rationalization includes posting as well as transfer, because in a scheme of rationalization various aspects like need of the person, availability of work, suitability of the person in a particular posting etc. is taken care of. In that sense posting/rationalization is not by itself a transfer, but it includes an element of transfer also. The ordinary tenets of transfer appears to be included in rationalization, but the same is not only a transfer but is a posting depending upon various factors. It is not in the domain of the writ Court to decide or to embark upon judicial review to assess the legality of the exercises undertaken by the Government keeping in view its own administrative interest and the aspiration of the local populace.

5. The transfer order was issued by the DEO under approval from the Collector. The impugned order has also been issued by the Chief Executive Officer, Zila Panchayat under approval from the Collector, therefore, both the orders have the prior approval and sanction of the Collector. Mere change of the issuing authority would not render the order without jurisdiction. Even otherwise the policy does not specifically figure out the authority who will decide the representation nor the order passed by this Court mentioned that the representation shall be decided by any particular authority. Since both the orders have been issued under the approval from the Collector, the argument raised in this aspect has no substance.

6. The order of transfer has been issued in exercise during implementation of rationalization scheme and the petitioner has been transferred and posted in the same Block. Thus, the new place of posting is not at a far away place.

7. Considering the limited scope of interference and for the reason that the other grievance of the petitioner has already been looked into by employer, this Court is not find any substance which fails and is hereby dismissed.

Sd/-

JUDGE

(Prashant Kumar Mishra)