

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3363 of 2015

- Nityanand Bhoi S/o Mohar Singh Bhoi, Aged About 55 Years
Upper Division Teacher, Govt. Girls Middle School, Attached Girls
Higher Secondary School, Saraipali, District Mahasamund,
(Chhattisgarh)

---- Petitioner

Versus

1. The State Of Chhattisgarh Through: Secretary, Department Of
School Education, Mahanadi Bhawan, Mantralaya, New Raipur,
District Raipur, (Chhattisgarh)
2. Collector, District Mahasamund, (Chhattisgarh)
3. District Education Officer, Mahasamund, District Mahasamund,
(Chhattisgarh)
4. Block Education Officer, Saraipali, District Mahasamund,
(Chhattisgarh)
5. Principal, Girls Higher Secondary School, Saraipali, District
Mahasamund, (Chhattisgarh)
6. Head Master, Govt. Girls Middle School, Saraipali, Attached Girls
Higher Secondary School, Saraipali, District Mahasamund,
(Chhattisgarh)
7. Satyendra Pradhan, Upper Division Teacher, Govt. Girls Middle
School, Attached Girls Higher Secondary School, Saraipali,
District Mahasamund, (Chhattisgarh)

---- Respondent

For Petitioner	Mr. R. Pradhan, Advocate
For Respondent/State	Mr. P.K. Bhaduri, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

16/9/2015

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

(2) The petitioner has called in question the impugned order passed by the District Education Officer, Mahasamund, whereby, the petitioner has been posted from Government Girls Middle School, Saraipali to Government Middle School, Putka.

(3) Learned counsel for the petitioner would submit that respondent No.7 Satyendra Pradhan has subsequently joined at the Government Girls Higher Secondary School, Saraipali yet the petitioner has been treated as surplus and transferred to Putka. He would further submit that the impugned order is in fact an order of transfer during ban period, however, it has been captioned as rationalization to avoid the ban imposed by the State Government for affecting transfer.

(4) Learned counsel for the State would oppose the prayer on submission that the impugned order refers to the instructions of the School Education Department and Panchayat Department from time to time issuing guidelines for rationalization of teachers for their posting to such place where there are less number of teachers.

(5) This Court in **Gajendra Hariharo and Others v. State of Chhattisgarh and Others**¹ and other connected matters, after placing reliance on various decisions of the Supreme Court, held thus :

8. It appears the decision has been taken at the highest level in the Government after obtaining relevant data about the number of teachers working in the Department; the ratio of teacher-pupil; and the requirement of teachers in rural areas.

¹ WPS 3200 of 2014 (decided on 22-7-2014)

9. On a careful reading of the contents of the policy, it no where appears that the policy has been framed without application of mind or to achieve any oblique motive. In fact, the policy has been framed to facilitate teaching in the schools so that the poor students who study in Government schools/Panchayat Schools should obtain quality education, as intended by the legislature while enacting the Act, 2009.

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xxx	xxx	xxx
xxx	xxx	xxx

13. In matters concerning administration the Court should be loathe to interfere when the Government is acting *bona fidely* to achieve the pious object of providing teachers in the rural areas and less teacher schools in the urban areas.

14. The argument concerning violation of set up of the department, contravening the provisions of the Act, 2009 or the Chhattisgarh Non-Gazetted Class III Education Service (School Level Service) Recruitment and Promotion Rules, 2008 (for short 'the Rules, 2008') have been made without elaborating the same as to in what manner the same have been violated. The petitioners have also not pointed out by referring to any particular provision of the Act or the Rules to challenge the policy.

xxx	xxx	xxx
xxx	xxx	xxx
xxx	xxx	xxx

16. Similarly, even if it is assumed that the impugned policy would ultimately have the effect of transfer/posting of teachers, the same cannot be struck down because it is within the exclusive domain of the Government to direct transfer/posting of teachers. The impugned policy is only guidelines without having any statutory force. It cannot be treated as executive

instruction under Article 166 of the Constitution so that the Court can judiciously review the contents of the policy on the approved parameters on which judicial review is permissible.

xxx	xxx	xxx
xxx	xxx	xxx
xxx	xxx	xxx

18. Once the administration has felt that there are concentration of teachers in particular areas be it urban area or in a particular school, it is for them to decide the ways and means to rationalize the number of teachers and the writ Court has no power of judicial review to struck down the policy merely because large number of teachers would be effected and will be shifted to other schools by way of implementing the policy. It is settled law that a Government employee does not have any statutory or constitutional right to remain posted at a particular place.

(6) It is also to be seen that the petitioner is posted at present place of posting since 2007. Moreover, the transferred place is less than 15 kms from the present place of posting. The impugned order is a posting order pursuant to the scheme of rationalization, therefore, this Court does not find any substance in the writ petition.

(7) Accordingly, the writ petition fails and is hereby dismissed.

Sd/-
Judge

(Prashant Kumar Mishra)