

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 4671 of 2016**

- Gautam Prasad Chouhan S/o Konda Ram Chouhan, Aged About 38 Years Assistant Teacher Panchayat Govt. Primary School Sonadula Janpad Panchayat Sarangarh, District Raigarh Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of School Education Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh
2. Secretary, Department Of Panchayat & Rural Development, Mahandi Bhavan, Mantralaya New Raipur District Raipur Chhattisgarh
3. The Collector, Raigarh, District Raigarh Chhattisgarh
4. The Chief Executive Officer, Zila Panchayat Raigarh, District Raigarh Chhattisgarh
5. Chief Executive Officer, Zila Panchayat, Korba District Korba Chhattisgarh
6. Chief Executive Officer, Janpad Panchayat, Sarangarh, District Raigarh Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Govind Dewangan, Advocate
For State	:	Mr. D.R. Minj, Dy. Govt. Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****09/09/2016**

Heard.

1. The transfer order has been challenged on the ground that while transferring the petitioner, the policy of keeping husband wife together at the same place or at nearby station, as far as, possible subject to administrative exigency has not been kept in view.
2. Learned counsel for the petitioner submits that the petitioner is presently posted in a school within the jurisdiction of Janpad

Panchayat, Sarangarh and Jila Panchayat, Raigarh and the wife of the petitioner is also posted in a school within the jurisdiction of same Janpad Panchayat vide order dated 23.02.2015. Now, the petitioner has been transferred to another District – Korba, therefore, this violates the Policy of keeping husband and wife together.

3. It has been held more than once that the ground of keeping husband and wife together at one place is always subject to exigency of service only. As far as possible, an effort has always to be made to find out whether it is administratively possible to keep the husband and wife at the same station and if not, at nearby stations. However, if the administrative exigency does not permit this kind of adjustments, it cannot be claimed as of right.
4. It appears that the wife of the petitioner was brought to the school within the jurisdiction of Janpad Panchayat, Sarangarh vide order 23.02.2015 under a rationalization scheme. In the matter of posting in the school, the requirement of the school is paramount consideration. However, if without adversely affecting administrative exigency, it is possible to adjust husband wife together at one place or at nearby stations, the possibility should be explored by the transferring authority.
5. In the present case, the petitioner has been transferred to another district which falls within the jurisdiction of Jila Panchayat, Korba, whereas, wife of the petitioner remained posted at Janpad Panchayat, Sarangarh within the jurisdiction of Jila Panchayat, Raigarh. Thus, inter Jila Panchayat transfer has been made. The

petitioner remained posted at the present place for the last six years. It is presumed that the transfer order has been passed in the exigency of service, therefore, all that is required to be done is to direct both Jila Panchayat Korba and Jila Panchayat, Raigarh to consider petitioner's case. These two authorities, in co-ordination with each other, shall take decision whether, subject to posting of teachers under the rationalization scheme and the provisions under Right to Education Act, it is possible to keep posting of husband and wife together at nearby station in the same district.

6. In case the petitioner prefer representation to Jila Panchayat, Raigarh, the representation of the petitioner shall be considered and decided within a period of eight weeks.
7. The petition is accordingly disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge