

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 232 of 2015**

1. Smt. XYZ W/o Shri PQR, Aged About UV Years, R/o Tamnar, Tehsil & Thana Tamnar, District Raigarh (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary Department Of Home, Mantralaya, Mahanadi Bhawan, New Raipur (Chhattisgarh)
2. Secretary, Department Of Health And Family Welfare, Mahanadi Bhawan Mantralaya, New Raipur (Chhattisgarh)
3. Superintendent Of Police, Raigarh, District Raigarh (Chhattisgarh).
4. Collector, Raigarh, District Raigarh (Chhattisgarh)
5. Chief Medical And Health Officer, Raigarh, District Raigarh (Chhattisgarh)
6. D.S. Paikara, Currently Posted As Block Medical Officer, Community Health Centre, Tamnar, Raigarh (Chhattisgarh)
7. Station House Officer, Tamnar, Tehsil Tamnar, District Raigarh (Chhattisgarh)
8. Mr. Navin Jindal, Chairman, Jindal Steel And Power Ltd. Tamnar, Thana & Tehsil Tamnar, District Raigarh (Chhattisgarh)
9. Mr. Bhargava, Manager, Jindal Steel And Power Ltd. Tamnar, Thana & Tehsil Tamnar, District Raigarh (Chhattisgarh)
10. Managing Director, Jindal Steel And Power Ltd. Tamnar, Thana & Tehsil Tamnar, District Raigarh (Chhattisgarh) And Also Via Corporate Office : Jindal Centre, 12, Bhikaiji Cama Place, New Delhi - 110 066.

---- Respondents

For Petitioner	Shri M. L. Sharma & Shri Harsh Wardhan, Advocates
For Respondent/State	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**C A V Order****28/01/2016**

1. In the present petition under Article 226/227 of the Constitution of India, the petitioner would pray for necessary direction for summoning a report from the Superintendent of Police, Raigarh (for short 'the SP, Raigarh') upon petitioner's complaint dated 04.06.2013 and set aside the orders dated 20.07.2015 (Annexure-P-11) & 30.09.2015 (Annexure-P-10), whereby the petitioner, who is working as Multipurpose Health Worker (Female) at Community Health Centre, Tamnar has been transferred to Sub Health Centre, Sonbarsa (Chaple) on administrative ground and has been directed to vacate the Government accommodation at Tamnar, as she has already been relieved on 30.07.2015 to join at Sonbarsa (Chaple).
2. At the outset, it needs mention that the petitioner had earlier filed CRLMP No.4661 of 2015 in Writ (Criminal). D. 4434 of 2015 (*XYZ v. State of Chhattisgarh & Ors.*) before the Hon'ble Supreme Court, however, the said proceedings were withdrawn before the Hon'ble Supreme Court after arguing at some length. The order dated 07.04.2015 passed by the Hon'ble Supreme Court reads thus :

“After arguing the matter at some length, Mr. Manohar Lal Sharma, learned counsel for the petitioner seeks leave to withdraw this appeal (CRLMP No.4661 of 2015) reserving liberty for the petitioner to approach the High Court for appropriate

redress in accordance with law. The appeal (CRLMP No.4661 of 2015) is accordingly dismissed as withdrawn with the liberty prayed for.

We however express no opinion on the merits of the case which the petitioner or the respondents may be entitled to raise at the appropriate stage before the appropriate Forum.”

3. Although copy of the pleadings filed before the Hon'ble Supreme Court has not been annexed, however, a declaration has been made in para 6 of the writ petition that the petitioner has not filed any petition before any other Court except the petition filed in Supreme Court, where the Hon'ble Supreme Court has granted liberty. Thus, on petitioner's own showing, similar petition was filed before the Hon'ble Supreme Court.
4. The first relief prayed in this petition is only to the effect that a report be called for from the SP, Raigarh, on petitioner's complaint dated 04.06.2013. The petitioner has not prayed for any further or consequential relief in this regard, therefore, since learned counsel appearing for the State has produced a report dated 30.10.2015 of the SP, Raigarh along with a report of the concerned police station no further adjudication is necessary, however, in view of the nature of allegations, the report needs to be referred briefly :
 - In regard to petitioner's complaint dated 04.06.2013, it has been stated in the report that the seal of the police station Tamnar appended on the complaint dated 04.06.2013 is different than the seal used by the police station Tamnar

in the year 2012, 2013 & 2014 and further that the seal appended on the petitioner's complaint do not bear the date and receipt number, therefore, in absence of original application, further scrutiny was not possible. It is also stated that in the Rojnamcha Sanha of the Tamnar Police Station from 25.05.2013 to 08.06.2013 as also Arayaj Register for the period from 25.05.2013 to 08.06.2013 do not contain any entry about the petitioner's complaint.

- In so far as the petitioner's complaint dated 10.10.2015 would concern, the same was enquired in detail. Statements of several persons were obtained, however, all of them denied that the petitioner has informed them at any point of time about the misdeeds/offence committed by any of the respondents. It is further mentioned that the petitioner's land was acquired by the Jindal Steel and Power Limited (for short 'JSPL') in February, 2004 for which compensation of Rs.15,37,793/- has been deposited in the Government Treasury/Land Acquisition Officer, Raigarh.
- Since the complainant had mentioned the name of the respondent No.9, Mr. Bhargava, Manager, JSPL his role was specifically enquired, however, it was found that on the date of alleged incidence i.e. 01.06.2013, Mr. Bhargava was not at Tamnar. Giving details of his train journey from Raigarh to Kolkata and journey by Air from Kolkata to Delhi and thereafter from Delhi to Raigarh, it

has been mentioned that he came back to Tamnar on 02.06.2013. The train journey and journey by air performed by Mr. Bhargava has been verified from the airport and from the travel agent, who have confirmed that Mr. Bhargava had undertaken the said journeys.

5. In view of the above report and particularly for the reason that the petitioner has not prayed for any further relief in respect of her complaint dated 04.06.2013, apart from summoning the report from the SP, Raigarh, which has been made available to the Court by the learned counsel appearing for the State, this part of the writ petition needs no adjudication.
6. The second part of relief claimed in the writ petition is for quashment of the orders dated 20.07.2015 and 30.09.2015. By order dated 20.07.2015, the petitioner has been transferred from the Community Health Centre, Tamnar to Sub Health Centre Sonbarsa, Chapple. The order has been issued by the Collector (Health), Raigarh.
7. It has been stated that the transfer order has been issued in *mala fide* exercise of power to harass the petitioner, however, no pleading has been raised in the writ petition to elaborate as to why the transferring authority i.e. the Collector, Raigarh has passed the *mala fide* order. The petitioner otherwise appears to be lowly paid employee as she is working as Multipurpose Health Worker (Female). Both the places are situated within Raigarh District and are at a distance of about 50-60 kms. Claus 4 of the

transfer policy framed by the State Government on 1.7.2015 for the year 2015-16 provides for an alternative remedy of preferring a representation before the Divisional Commissioner, therefore, the petitioner has alternative remedy of preferring the representation.

8. It is settled that transfer orders cannot be interfered by the writ Court unless the same is actuated with *mala fides* or is in violation of statutory provision or it adversely affects any of the service conditions of the employees. None of the said permissible grounds of challenge are available to the petitioner, therefore, if the petitioner has any personal difficulty in complying the transfer order she should avail the alternative remedy of preferring representation before the Divisional Commissioner.
9. Accordingly, the writ petition is disposed of with a direction that in the event the petitioner prefers representation against the transfer order dated 20.07.2015 and the order dated 30.09.2015 before the Divisional Commissioner within a period of one month from today, the said Divisional Commissioner shall consider and decide the same, in accordance with law and on its own merits.

Sd/-

Judge

Prashant Kumar Mishra

Gowri