

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 680 of 2015**

Natthu Ji Rao Garad, S/o Deo Ji Garad, aged about 60 years, working as Sub Engineer, Janpad Panchayat Fingeshwar (Rajim), District Gariyaband, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, Through The Secretary, Department of Panchayat and Rural Development, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh.
2. Janpad Panchayat, Fingeshwar (Rajim) Through its Chief Executive Officer, District Gariyaband, Chhattisgarh.
3. Engineer-in-Chief, Rural Engineering Services Development, Commissioner Officer, Raipur, District Raipur, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Shrawan Agrawal, Advocate.
For Respondents/State	:	Shri B. Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board**Per Navin Sinha, Chief Justice****05/01/2016**

1. The present appeal arises from order dated 8.12.2015 dismissing Writ Petition (S) No.4643 of 2015 declining to interfere with the order of transfer dated 31.10.2014, of the petitioner from Janpad Panchayat, Fingeshwar (Rajim), District Gariyaband to Chhattisgarh Gramin Sadak Vikash Adhikaran, Kanker.
2. Having heard Learned Counsel for the parties, we are satisfied that the impugned order calls for no interference for different reasons also as noticed by us hereinafter.
3. Against the impugned order of transfer dated 31.10.2014, the Appellant had earlier preferred Writ Petition (S) No.1298 of 2015 which was dismissed as

withdrawn on 16.4.2015 without any liberty. It is a matter of common practice that when a litigant is unable to persuade the Court to interfere, he prefers to withdraw the application rather than to invite an adverse verdict for filing a representation. If a representation is filed thereafter and is allowed so much the better for the litigant but if the representation is rejected, it does not give rise to a fresh cause of action or resurrect the cause of action which was found to be non-existent on the earlier occasion.

4. Additionally, once a writ petition is dismissed as withdrawn without any liberty for approaching the Court again, the subsequent writ petition filed by the Appellant for the same cause of action was not maintainable both as a matter of public policy and principles of *res-judicata*.

5. We find no reason to interfere. The appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE