

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4381 of 2016**

Mohd. Farukh S/o Mohd. Jamil Momin, Aged About 43 Years R/o
Tulsipur, District Rajnandgaon, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through: The Secretary, Revenue Development Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, (Chhattisgarh)
2. Under Secretary, State Of Chhattisgarh, Revenue Development Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, (Chhattisgarh)
3. Collector, Rajnandgaon, District Rajnandgaon, (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. T. K. Tiwari, Advocate
For Respondent-State	:	Mr. R.K. Gupta, Dy. Advocate General

Hon'ble Shri Manindra Mohan Shrivastava, J.**Order on Board****02/09/2016**

Heard.

1. The transfer order is under challenge on the following grounds:-
 - (i) that the Collector does not have power to transfer the petitioner within the sub division because as per Rule 7 of the Land Records Manual, for the purpose of effecting transfer within sub division, Sub Divisional Officer alone is competent;
 - (ii) that the transfer order has been issued without approval of the Minister In-charge of the District during ban period;
 - (iii) that the petitioner is suffering from certain medical problems and he has difficulty in movements because of disc prolapse problem.

2. The reference and reliance on Rule 7 of the Madhya Pradesh Land Records Manual, is misconceived. The Rules are only part of administrative instructions. It could neither be demonstrated nor established that, these Rules have statutory force. Secondly, the Collector being appointing authority has the power to transfer. Power of appointment of Patwari has been conferred on the Collector under the provisions of Chhattisgarh Land Revenue Code, 1959, therefore, the power which is available to the Collector by virtue of it being appointing authority under the law cannot be taken away or in any manner restricted under the administrative instructions. The purpose of Rule 7 is only to delegate the power of transfer of Patwari within the sub division in the hands of Sub Divisional Officer and not to take away the general power of transfer available to the Collector to transfer a Patwari to any place within the district. Therefore, the first ground fails.

3. The second ground is that the transfer order has been issued in violation of the transfer policy dated 11/06/2016 also does not hold good in view of the Government circular dated 12/09/2014 which was placed for perusal by State counsel. It clearly shows that notwithstanding anything cited in the transfer policy, the Collector would have power to shift/transfer revenue Officers/employees namely Tahsildar, Naib Tahsildar, Revenue Officer and Patwari, within the district. Therefore, the second ground also fails.

4. However, as far as the third ground is concerned, this is essentially a matter for consideration of the competent authority i.e. Collector to examine the nature and extent of illness, taking into consideration the distance of the place where the petitioner is now being posted.

5. It is however found that the petitioner has already preferred representation to the competent authority, it would be open for the competent authority to decide the matter within a period of four weeks from the date of receipt of copy of this order.

6. With the aforesaid observation, the petition stands finally disposed off.

**Sd/-
(Manindra Mohan Shrivastava)
Judge**

Rekha