

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4378 of 2016**

Ram Kumar Verma S/o Shri Babu Lal Verma, Aged About 53 Years R/o Ward No. 15,
Ambagarh Chowki, Tahsil Ambagarh Chowki, 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)
4. Ghripal Singh Thakur, Patwari, Working At Patwari Halka Manpur, District Rajnandgaon, (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. T. K. Tiwari, Advocate
For Respondent-State	:	Mr. S.P. Kale, 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 has completed 26 years of continuous posting in the scheduled area, therefore, in view of the policy dated 03/06/2015, the petitioner is entitled to be considered for posting outside the scheduled area; and

(iv) that the petitioner is district level office bearer, therefore, he is entitled to exemption from transfer.

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.

4. The third ground of challenge is that the petitioner has completed 26 years of continuous posting in the scheduled area, therefore, in view of the policy dated 03/06/2015, he is entitled to be considered for posting outside the scheduled area. The said policy placed on record, in its clause 1.3, states that where the government servant has posted in the scheduled area for a long time, they may be considered for posting outside the scheduled area. Therefore, this

aspect can be considered by the State Government to transfer the petitioner outside the scheduled area, keeping in view various factors stated in clause 1.3, above.

5. The last ground of challenge that the petitioner is a district level office bearer, therefore, he is exempted from transfer, has been raised placing reliance upon clause 1(vi). The aforesaid policy only says that in respect of transfer of the office bearers of the Union, the instructions issued by the General Administration Department shall be followed. No circular or instruction of such nature has been placed for perusal of this Court to demonstrate the nature and extent of exemption granted to office bearer from transfer.

6. It is found that the petitioner has not filed any representation but rushed to file this petition.

7. Considering the circumstances, it is directed that if the petitioner submits representation before the State Government within a period of 15 days from today, his representation should be considered and decided by the State Government within a period of four weeks keeping in view the policy dated 03/06/2015 to consider the posting of the petitioner outside the scheduled area. Except this, no other ground, rejected by this Court shall be allowed to be agitated.

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

Sd/-

(Manindra Mohan Shrivastava)
Judge