

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.487 of 2016**

Dr. Ghanshyam Singh, S/o late Ganesh Singh, aged about 63 years, presently posted as Medical Superintendent at Government Medical College, Ambikapur, District Surguja, Chhattisgarh

---- Appellant**versus**

1. State of Chhattisgarh through its Secretary, Department of Health & Family Welfare, Mantralaya, Naya Raipur, Chhattisgarh
2. Secretary, Department of Medical Education, Mahanadi Bhavan, Mantralaya, New Raipur, Chhattisgarh
3. Director, Medical Education, Directorate of Medical Education, Mantralaya, New Raipur, Chhattisgarh
4. Director, Directorate Health Services, Raipur, Chhattisgarh
5. Collector, Ambikapur, District Surguja, Chhattisgarh
6. Chief Medical & Health Officer, District Surguja, Chhattisgarh
7. Dean, Government Medical College, Ambikapur, District Surguja, Chhattisgarh

---- Respondents

For Appellant	:	Shri Kishore Narayan, Advocate
For State/Respondents	:	Shri Y.S. Thakur, Additional Advocate General

Hon'ble Shri Deepak Gupta, Chief Justice**Hon'ble Shri Justice Sanjay Agrawal****Judgment on Board****Per Deepak Gupta, Chief Justice****20.10.2016**

1. This writ appeal is directed against the judgment dated 2.9.2016 passed by a Learned Single Judge of this Court in Writ Petition (S) No.4371 of 2016, whereby he rejected the writ petition filed by the Appellant herein challenging his transfer from the post of Medical Superintendent, Government Medical College, Ambikapur to the post of Incharge Civil Surgeon-cum-Chief Medical Superintendent, District Hospital, Balrampur.
2. The case of the Petitioner/Appellant is that he is working in the Medical College and, therefore, his services is governed by the Directorate of Medical Education and not by the State of Chhattisgarh.

The second submission is that the Dean of the Medical College has given him a certificate to the effect that in case he is transferred outside the college then working of the college may be adversely affected. In this behalf, it has been mentioned that at present staff available in the Government Medical College, Ambikapur is much-less than the requirement of the Medical Council of India. At the outset, we may mention that the Appellant is an employee of the State of Chhattisgarh. He has not been permanently appointed in the Medical College. His initial appointment was made as an Assistant Surgeon on ad hoc basis vide order dated 17.11.1978. He has been appointed on the post of Medical Superintendent vide order dated 12.4.2016 and thereafter the State has thought it fit to post him at Balrampur.

3. As rightly held by the Learned Single Judge, the State Government has not been divested of its power to transfer those doctors who are substantively borne in the Cadre of Health Services in the Department of Health Services. No doubt, the Dean of the Medical College has given a certificate that the working of the college may be adversely affected if the Petitioner is transferred, but we have to weigh this against the need of the tribals of the District of Balrampur, which is one of the most remote districts in the State of Chhattisgarh. These tribals belonging to remote areas of the State also have a fundamental right to get proper medical aid and, therefore, this Court had in other proceeding directed the State Government to ensure that specialist doctors are posted in all the remote tribal areas of the State. The transfer of the Petitioner/Appellant is legal and valid.
4. We find no merit in this appeal. It is, therefore, dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE