

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4872 of 2016**

Mamta Vaishya W/o Anil Kumar Kori, Aged About 49 Years Occupation Government Employee, R/o Ward No. 18, Behind F. C. I. Godown, Manendragarh District Koriya (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through : The Secretary, Department Of School Education, Mahanadi Bhawan, Naya Raipur (Chhattisgarh)
2. The Upper Secretary, Department Of School Education, Mahanadi Bhawan, Naya Raipur (Chhattisgarh)
3. The Director, Department Of School Education, Raipur, District Raipur (Chhattisgarh)
4. The District Education Officer, District Koriya (Chhattisgarh)
5. Principle Government Girls Higher Secondary School, Manendragarh, District Koriya (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. Atanu Ghosh, Advocate
For Respondent-State	:	Mr. Bhaskar Pyashi, P.L.

Hon'ble Shri Manindra Mohan Shrivastava, J.**Order on Board****19/09/2016**

Heard.

1. The transfer order is under challenge on three grounds :-

(A) The first ground of challenge is that the transfer order has been issued without there being any reliever of post in place of petitioner, therefore, transfer order cannot be given effect to.

2. In view of the policy dated 11/06/2016, this Court in the case of *Ms. Manisha Agrawal v. State of Chhattisgarh and others, 2015(4) C.G.L.J.*

182, has already held that non posting or non joining of the reliever cannot be a ground to execute transfer order.

(B) The second ground of challenge is that while transferring the petitioner, the policy of seeking approval of the In-charge Minister has not been followed.

3. The provision contained in circular dated 11/06/2016 (Annexure P-4), is applicable in the case only when the transfer was made by the Collector within the District. In the present case, the transfer order has been issued by the State Government, transferring the petitioner from one District to other District. Therefore, the argument in this regard is also to be rejected.

(C) The third ground of challenge is that the petitioner's husband is posted as Assistant Grade-II, in the Office of Sub Divisional Officer, Water Resources, Sub-Division, Manendragarh. By impugned order, petitioner has been transferred by the State Government without taking into consideration the Government Policy to keep husband and wife together as far as possible, subject to administrative exigency.

4. While the Government professes and follows policy of keeping husband and wife at one station, the policy is always subject to administrative exigency and does not confer any right.

5. It is petitioner's own showing that the petitioner and her husband both are posted at present place since almost five years, therefore, petitioner has become due for transfer and she has been transferred.

6. However, considering that the husband of the petitioner is also a Government Servant, State is directed to consider and explore the possibility, subject to administrative exigency of service, to post the petitioner and her

husband at one station or nearby station anywhere in the State in accordance with Government Policy to keep husband and wife together.

7. The competent authority shall consider and decide the representation of the petitioner within a period of six weeks from the date of receipt of copy of this order.

8. Subject to the said observation, the petition is disposed off.

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