

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6493 of 2017

Paltan Ram Patel S/o Shri Khorbahara Patel, Aged About 49 Years
Presently Working As Teacher Panchayat At Govt. Middle School,
Somnapur Naya, Block Pandariya, District Kabirdham Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development Mantralaya P. S. Rakhi, Tahsil Aarang, Naya Raipur, District Raipur Chhattisgarh
2. District Education Officer-Cum-District Project Co-Ordinator, Rajiv Gandhi Shiksha Mission, Kabirdham, District Kabirdham Chhattisgarh
3. Chief Executive Officer, Zila Panchayat, Kabirdham, District Kabirdham Chhattisgarh
4. Pradeep Singh Rajput, Teacher Panchayat At Govt. Middle School, Somnapur Naya, Block Pandariya, District Kabirdham Chhattisgarh

---- Respondents

Shri CJK Rao, counsel for the petitioner/s.
Shri Chandresh Shrivastava, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

28/11/2017

This petition has been filed by the petitioner aggrieved by 10/11/2017 by which, charge of higher post has been taken away from the petitioner and handed over to respondent No.4.

2. Learned counsel for the petitioner submits that as per the Government circular dated 10/11/2016, senior officer alone has to be allowed to continue to hold current charge of the higher post. He submits that even if there is a complaint, the same is required to be properly enquired after affording opportunity of hearing and only when complaint is found to be correct, such decision to hand over charge to a junior employee could be done.

3. On the other hand, learned State counsel submits that in the matter of current charge, the petitioner does not hold any right to hold the post and in that regard, appropriate directions have been issued by way of circular dated 07/02/2013 placed on record by the petitioner himself.

4. The petitioner is a current charge holder of the higher post. Circular dated 10/11/2016 deals with a situation where ordinarily, senior person has to be given charge of higher post. The circular dated 07/02/2013 is a policy of general obligation which permits by-passing seniority on administrative reasons. The reasons which have been assigned in the impugned order do constitute administrative reason. If the petitioner has no right to hold higher post, this Court does not find any illegality. However, if the petitioner moves representation before the authority, appropriate orders may be passed, if it is found that the complaint against the petitioner is not proper.

5. The petition is accordingly finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge