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HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3175 of 2017

- R.L. Chandrakar S/o Bhairam Chandrakar Aged About 58 Years
R/o Katghora, Purani Basti, District Korba, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Panchayat And Gramin Vikas Vibhag, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur, Chhattisgarh.
2. Zila Panchayat, Korba, Through Its Chief Executive Officer, Zila Panchayat Korba, Chhattisgarh.
3. Chief Executive Officer, Zila Panchayat, Korba, District Korba, Chhattisgarh.
4. Janpad Panchayat, Podi Uproda, Through Its Chief Executive Officer, Janpad Panchayat Podi Uproda, District Korba, Chhattisgarh.
5. H. C. Patel, Accountant, Janpad Panchayat, Kartala, District Korba, Chhattisgarh.

---- Respondent

And

WPS No. 3265 Of 2017

- S.K.Baiswade S/o Lachhiram Baiswade, Aged About 56 Years R/o
Near Gopal Petrol Pump, Bilaspur Road, Katghora, District Korba
(Chhattisgarh).

---- Petitioner

Vs

1. State Of Chhattisgarh Through Secretary, Panchayat & Gramin Vikas Vibhag, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur (Chhattisgarh).
2. Zila Panchayat, Korba, Through Its Chief Executive Officer, Zila Panchayat, Korba (Chhattisgarh).
3. Chief Executive Officer, Zila Panchayat, Korba, District Korba (Chhattisgarh).

4. Janpad Panchayat, Podi Uproda, Through Its Chief Executive Officer, Janpad Panchayat, Podi Uproda, District Korba (Chhattisgarh).
5. O. P. Rathore S/o Late Shivram Prasad Rathore, Aged About 53 Years R/o Podi Bahar, Korba, District Korba (Chhattisgarh).

---- Respondent

And

WPS No. 3176 Of 2017

- S.K.Sharma S/o Ramkhilawan Sharma Aged About 56 Years R/o Podi Uproda, Tahsil Podi Uproda, District Korba, Chhattisgarh.

---- Petitioner

Vs

1. State Of Chhattisgarh Through Secretary, Panchayat And Gramin Vikas Vibhag, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur, Chhattisgarh.
2. Zila Panchayat, Korba, Through Its Chief Executive Officer, Zila Panchayat, Korba, Chhattisgarh.
3. Chief Executive Officer, Zila Panchayat, Korba, District Korba, Chhattisgarh.
4. Janpad Panchayat, Podi Uproda, Through Its Chief Executive Officer, Janpad Panchayat Podi Uproda, District Korba, Chhattisgarh.
5. S. K. Pandey S/o G. R. Pandey Aged About 52 Years R/o Korba, District Korba, Chhattisgarh.

---- Respondent

And

WPS No. 3193 Of 2017

- O.P.Rathore S/o Late Shivram Prasad Rathore Aged About 53 Years R/o Podi Bahar, Korba, District - Korba, Chhattisgarh.

---- Petitioner

Vs

1. State Of Chhattisgarh Through Secretary, Panchayat & Gramin Vikas Vibhag, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur Chhattisgarh.

2. Zila Panchayat Korba Through Its Chief Executive Officer, Zila Panchayat, Korba Chhattisgarh.
3. Chief Executive Officer Zila Panchayat, Korba District Korba Chhattisgarh.
4. Janpad Panchayat Podi Uroda, Through Its Chief Executive Officer, Janpad Panchayat, Podi Uroda, District Korba Chhattisgarh.
5. S . K . Baiswade S/o Lachhiram Baiswade Aged About 56 Years R/o Near Gopal Petrol Pump, Bilaspur Road, Katghora, District Korba Chhattisgarh.

---- Respondent

And

WPS No. 3179 Of 2017

- S.K. Pandey S/o G. R. Pandey Aged About 52 Years R/o Korba, District Korba, Chhattisgarh.

---- Petitioner

Vs

1. State Of Chhattisgarh Through : Secretary, Panchayat and Gramin Vikas Vibhag, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur, Chhattisgarh.
2. Zila Panchayat, Korba, Through Its Chief Executive Officer, Zila Panchayat Korba, Chhattisgarh.
3. Chief Executive Officer, Zila Panchayat, Korba, District Korba, Chhattisgarh.
4. Janpad Panchayat Podi Uroda, Through Its Chief Executive Officer, Janpad Panchayat, Podi Uroda, District Korba, Chhattisgarh.
5. S. K. Sharma S/o Ramkhilawan Sharma Aged About 56 Years R/o Podi Uroda, Tahsil Podi Uroda, District Korba, Chhattisgarh.

---- Respondent

For Respective
Petitioners
For Respondent /State
For Respondent-Zila
Panchayat

Mr. Manoj Paranjpe and Mr. Rahul
Tamaskar, Advocates
Mr. Sameer Behar, Panel Lawyer
Mr. Sushobhit Singh, Advocate

None for respondent No.5 (HC Patel)
in WPS No.3175 of 2017, despite
service of notice.

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

16/11/2017

1. Heard.
2. Indisputably, the petitioners have suffered the transfer order (Annexure P/1) issued by the Zila Panchayat, Korba, transferring them from one Janpand Panchayat to another Janpad Panchayat.
3. The petitioners have assailed the order on the ground that the Zila Panchayat lacks jurisdiction to transfer employees of one Janpad Panchayat to another Janpad Panchayat. Reliance is placed on the order passed by this Court in WPS No.2543 of 2017 on 23.10.2017 (**Altaf Khan Vs. State of Chhattisgarh and others**).
4. In the matter of **Altaf Khan** (supra), this Court has held thus in para 2 & 3 :

“2. It appears Rule 27 of the Chhattisgarh Panchayat Service (Recruitment and General Conditions of Services) Rules, 1999 enabled the Zila Panchayat to transfer the employees of one Janpad Panchayat to other Janpad Panchayat by virtue of proviso inserted in Rule 27(ii) of the said rules with effect from 30.11.2012, however, by subsequent notification dated 1.12.2015 the said proviso to Rule

27(ii) has been deleted rendering the Zila Panchayat without any authority or power to transfer employees of one Janpad Panchayat to the other Janpad Panchayat.

3. In the return filed by the respondent Zila Panchayat, Bijapur, no details of other source of power to pass the impugned transfer order has been mentioned.”

5. In view of the above, it is held that the Zila Panchayat, Korba has no authority nor the power exercised is backed by any statutory provision or any executive instruction, therefore, the transfer order, in so far as the present petitioners are concerned, is set-aside. However, it is made clear the competent authority would be at liberty to pass fresh order with regard to the petitioners in accordance with law depending upon the administrative exigency.

6. The writ petitions are allowed to the extent indicated above.

Sd/-

Judge

(Prashant Kumar Mishra)

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