

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 175 of 2017**

- Dr. Lavkush Dubey S/o Late Jai Jai Ram Dubey, Aged About 57 Years Resident Of G - 21, Nutan Colony, Police Station Sarkanda, District Bilaspur (Chhattisgarh).

----Appellant**Versus**

1. State Of Chhattisgarh Through : The Secretary, Department Of Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur (Chhattisgarh).
2. Under Secretary, Department Of Health & Family Welfare, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, (Chhattisgarh)
3. Director, Indian System Of Medicine And Homeopathy, Raipur, District Raipur (Chhattisgarh)
4. Superintendent Cum District Ayurved Officer, Bilaspur, District Bilaspur, (Chhattisgarh)

--- Respondents

For Appellant	:	Mr. Chandresh Shrivastava, Advocate
For State	:	Mr. Ashish Surana, Panel Lawyer

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board**Per Thottathil B. Radhakrishnan, Chief Justice****19.06.2017**

1. We have heard the learned Counsel for the Appellant Writ Petitioner.
2. The Petitioner's daughter has an unfortunate situation of being one who is suffering from Thalassaemia Major for which she requires blood transfusion at regular intervals. The Petitioner who himself is a physician

in Aurveda was transferred at an earlier point of time to Mungeli. That was reconsidered by the State Government following the earlier direction of this Court. He was accordingly ordered to be posted in the Raigarh Medical College Hospital. Learned Single Judge in paragraph 7 has found on facts that the facilities for blood transfusion of Thalassaemia Major is available in the Raigarh Medical College. This was shown by the State vide Annexure R/1 filed along with the Writ Petition. Under such circumstances, we are not inclined to take a view that the learned Single Judge has misdirected himself in the matter of exercising discretion under Article 226 of the Constitution of India. What is best in situation in hand, has been obtained by the Petitioner. It is not acceptable that the Petitioner should insist that he shall be perennially available in Bilaspur.

3. We are also not able to accede to the request that the transfer may be considered in the next year. We say so, because the unfortunate health situation which the Petitioner's daughter is facing is, going by what is now known in the realm of science, is a situation which is not a short duration problem.
4. Hence, we do not find any ground to interfere with the Judgment of the learned Single Judge.
5. For the aforesaid, this Writ Appeal fails. In the result, this Writ Appeal is dismissed in limine.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge