

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPS No. 1374 of 2016**

- Dr. Anjali Dhruv D/o. Shri R.D. Dhruv, Aged About 42 Years R/o F 2/1, G.A.D. Colony, Kachna, Raipur, District Raipur At Present Working Asst. Professor (Anthropology), Govt. Yoganandam, Chhattisgarh Post Graduate College, Raipur, District Raipur (Chhattisgarh)

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Higher Education, Mahanadi Bhawan, Mantralaya, Naya Raipur (Chhattisgarh)
2. The Deputy Secretary, Department Of Higher Education, Mahanadi Bhawan, Mantralaya, Naya Raipur (Chhattisgarh)
3. The Officer In Charge, Director, National Cadet Core, Raipur, Distt. Raipur (Chhattisgarh)
4. The Principal, Govt. Yoganandam, Chhattisgarh Post Graduate College, Raipur, District Raipur (Chhattisgarh)
5. Smt. Sampada Bais (Kashyap), Assistant Professor (Anthropology), Govt. Kaktiya Post Graduate College, Jagdalpur, District Bastar (Chhattisgarh)

**---- Respondent**

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| For Petitioner       | : | Shri Vivek Verma, Advocate        |
| For Respondent/State | : | Shri Satish Gupta, Govt. Advocate |

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**Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**07/03/2017**

1. Heard.
2. This petition is filed aggrieved by the order dated 27/02/2016, by which, the petitioner's representation has been rejected.
3. Counsel for the petitioner submits that earlier, petitioner filed a petition before this Court challenging her transfer from Raipur to Jagdalpur mainly on the ground that the petitioner is a trained Senior NCC Officer and under the policy, trained officer is to be posted in those institution where such services are necessary. The writ petition was disposed of vide order dated 12/01/2016 with the clear direction that the Government shall consider the

representation in consultation with Directorate of NCC, State Cell (Chhattisgarh) as per circulars and further consider to transfer the petitioner in a place where NCC coverage is available, subject to availability of post.

However, the respondent did not follow the directions issued by the Court and have rejected the representation mechanically, which is not only contrary to order of this Court, but also against their own directions as also in ignorance of NCC Directorate advise.

4. Learned State counsel submits that as the petitioner is continuing in present place it is necessary to transfer from the present place of posting to another college against the post of Assistant Professor of the subject Anthropology. He further submits that though this Court had issued direction, entire matter was examined. It was found that the petitioner is substantially posted Assistant Professor in Anthropology and such a post is available at the place where the petitioner is transferred.

After going through the impugned order, this Court is constrained to observe that the direction earlier issued by this Court have not been duly considered. What was observed by this Court direction issued in earlier round of litigation needs to be reiterated herein below in para 8 :-

*"It is not in dispute that the petitioner is Assistant Professor of the NCC. She is NCC Trained Officer and has been awarded with Commandant Certificate of Merit by NCC Officers Training Academy. Circular issued by the Director, Directorate General NCC clearly provides that the State Government should consult with Directorate of NCC before transferring the services of NCC Trainee Officers and the State Government and Director, Directorate General NCC have also issued the similar instruction in that behalf. In both the circulars issued by the Directorate of NCC, State Cell (Chhattisgarh) and Director, Directorate General NCC, consultation with Director, Directorate General NCC has been held to be necessary, but there is no such requirement of concurrence, which is apparent from the circular of the Director, Directorate General NCC. Even there is no absolute ban on transfer policy issued for transfer of an officer to a place where there is no. 4 NCC coverage, therefore, transfer of an officer having experience of NCC Training to a place having no NCC coverage finding administrative exigency cannot be held to be illegal, but the fact remains that Government has incurred huge expenses and there is policy of the Director, Directorate General NCC as well as Directorate of NCC, State Cell (Chhattisgarh) to post*

*the officer in a place where NCC coverage is there and consultation of the Directorate of NCC is held to be necessary, therefore, it is directed that if the petitioner makes a representation before the State Government within a period of two weeks from today, the State Government will do well and consider the same with consultation of the Directorate of NCC, State Cell (Chhattisgarh) as per circulars and further consider to transfer the petitioner in a place where NCC coverage is available, subject to availability of post, in accordance with law within a period of 45 days from the date of receipt of representation of the petitioner along with copy of this order. Till the representation is decided, no further coercive steps shall be taken against the petitioner. No order as to cost(s)".*

5. It was in aforesaid spirit that this Court had directed to seek consultation with the Directorate of NCC. Once there is direction to consider the case with the aforesaid point of view, the respondents were duty bound to consider the matter. However, the impugned order rejecting the representation of the petitioner does not show that the order of the Court was duly considered. It more appears to be an exercise of powers against the true spirit of the earlier order. For the aforesaid reason, the impugned order is set-aside. Petitioner's transfer shall also not given effect and shall continue at the present place of posting. This order shall not come in the way in transferring petitioner to an institution imparting NCC training. In view of this, the State Govt. is directed to pass a fresh order in case of respondent No. 5. Petition is accordingly allowed.

Sd/-

(Manindra Mohan Shrivastava)  
Judge