

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 624 of 2018

Ranveer Singh Narvaria S/o Shri Ahiram Singh Narvria Aged About 57 Years R/o Government Nursery Lalpur, P. O. Lalpur, Pendra-Road, District Bilaspur (Chhattisgarh), District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Agriculture And Biotechnology Department, Mahanadi Bhawan, Mantralaya, Naya Raipur (Chhattisgarh) 492002, District : Raipur, Chhattisgarh
2. Director Horticulture And Farm Forestry 4th Floor, Block-2, H O D Building, Indrawati Bhavan, Naya Raipur (Chhattisgarh) 492002, District : Raipur, Chhattisgarh
3. Deputy Director Horticulture, Ratanpur Road, Sarkanda District Bilaspur (Chhattisgarh), District : Bilaspur, Chhattisgarh
4. Vinay Tripathi S/o Shailendra Kumar Tripathi Aged About 30 Years R/o Gaurela, Tehsil Pendra Road (Gaurela) District Bilaspur (Chhattisgarh), District : Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Kshitij Sharma, Advocate
For State/Res. No.1 to 4	:	Shri Chandresh Shrivastava, Panel Lawyer
For Respondent No.5	:	Shri Ravi Kumar Bhagat, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

02/02/2018

1. The petitioner has challenged suspension order dated 5.1.2018 passed by the Director Horticulture, Raipur.
2. The suspension order is challenged on the ground of malafide exercise of power in the background of petition filed by the petitioner before this Court.

3. Assailing correctness and validity of the suspension order dated 5.1.2018, learned counsel for the petitioner would submit that while the petitioner was posted at Lalpur, Gaurela, a transfer order was issued on 14.8.2017 whereby the petitioner was transferred to Bemetara. The petitioner challenged that transfer order and an interim order was passed in his favour on 30.8.2017. However, the official respondents were inclined to grant undue favour and patronage to respondent No.4 who was being posted in place of the petitioner in violation of transfer policy. Later on, an attempt was made to give a posting to respondent No.4 at some other place because of the interim order. Vide order dated 10.11.2017, respondent No.4 was posted in the High Court campus. The petitioner was only thereafter suspended by the impugned order. It is submitted that this shows that the only operative reason in placing the petitioner under suspension was that the petitioner had approached this Court and obtained interim order which the authority did not like. Learned counsel for the petitioner would further submit that the material which has been placed before this Court by the State authority to suggest that there are certain irregularities committed by the petitioner, are not sufficient to make out a prima facie strong case to warrant suspension of the petitioner. He would submit that recourse of suspension should not have been taken as a routine but only in exceptional cases, unless it was found to be absolutely necessary to ensure that without suspension, interest of administration would not be protected. Learned counsel for the petitioner finally submitted that the petitioner has been posted at Sukma which shows vindictive attitude of the authority because Sukma is a far off place.
4. Learned counsel for the State would submit that as far as suspension part of the petitioner is concerned, it has nothing to do with the transfer aspect. He would submit that the transfer order was passed on 14.8.2017 on administrative exigency because respondent No.4 had requested for his transfer. He would submit that later on, the authority who had already started enquiry into various affairs found certain prima facie material against the petitioner, therefore, he was placed under suspension. The issue of transfer and suspension are therefore not related to each other and cannot be said to be malafide exercise of power by the Director Horticulture.

5. True it is that the petitioner had filed a petition against transfer order and there was a protective order passed in his favour by this Court. The suspension order of the petitioner has been passed on 5.1.2018 by the Director Horticulture. There is no specific allegation of malafide as to why the Director Horticulture would be prejudiced against the petitioner. The Court had earlier stayed transfer order of the petitioner which was passed by the State Govt. Moreover, documents which have been filed by the State along with the reply show that there were various inquiries made against the petitioner. On certain allegations prima facie no case is made out but on certain allegations, there are certain irregularities pointed against the petitioner. Therefore, it cannot be said that except the background of transfer there was no material available for the respondents to place the petitioner on suspension. The reason why the petitioner should be subjected to malafide action by the Director Horticulture or Deputy Director Horticulture is not found anywhere in the petition. If there would have been any material placed before this Court to prove malafide exercise of power, this Court could have drawn inference that only operative reason for placing the petitioner under suspension was the background of the transfer case. It is well settled legal position that malafides are required to be proved by a very cogent and strong evidence and high degree of proof is necessary. Once there are material which prima facie indicates certain irregularities committed by the petitioner, I am not inclined to interfere with the suspension order on the allegation it being malafide.

There are other grounds raised by the petitioner to challenge the suspension order. In my opinion, all those grounds could be raised by the petitioner by filing a statutory appeal under Rule 23 of the Civil Services (Classification, Control and Appeal) Rules, 1966.

6. Only on the aspect that petitioner's Headquarters has been fixed at Sukma, it is required to be reconsidered by the authority because there does not appear to be any strong reason either in the order or in the reply as to why the petitioner should be placed to such a long distance when enquiry is to be held against him on the allegation pertaining to his posting at Lalpur, Gaurela. The interests of administration could be served by attaching the petitioner to any

nearer place rather than attaching him at Sukma. To that extent, it would be appropriate to direct the respondents to modify the attachment order of the petitioner and till appropriate order of attachment is issued, no further steps should be taken against the petitioner for submitting his joining under attachment at Sukma.

7. The petition is accordingly finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen