

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.940 of 2018**

- R.P. Gupta S/o S/o Late Shri S. K. Gupta, Aged About 56 Years Occupation Principal Govt. Higher Secondary, School Khamhariya (Junwani), Bhilai, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Education, Mahanadi Bhawan, Post Office Mantralaya, P. S. Rakhi, Naya- Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. The Under Secretary, Department Of Education, Mahanadi Bhawan, Post Office Mantralaya, P. S. Rakhi, Naya- Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. The District Education Officer, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
4. Smt. Jaya Tiwari W/o W/o Shri R. P. Tiwari Aged About 50 Years Occupation Principal Govt. Higher Secondary School Sankara Block Patan District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

-- Respondents

For Petitioner : Shri Vipin Tiwari, Advocate
 For Respondent/State: Shri Chandresh Shrivastava, PL
 For Respondent No.4: Shri Ajay Shrivastava, Advcoate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****18/04/2018**

Heard.

2. The petitioner is assailing correctness and validity of impugned order dated 17-01-2018 (Annexure P/1), by which, transfer of the petitioner from Patan to Khamhariya has been cancelled.
3. Learned counsel for the petitioner would submit that the petitioner had carried out transfer order dated 14-08-2017 and joined at Khamhaiya on

18-08-2017. However, thereafter, the transfer order in respect of the petitioner and respondent No.4, which has already been executed, has been cancelled.

4. According to learned State counsel, though the State Government had transferred the petitioner and respondent No.4 vide order dated 14-08-2017, the respondent No.4 had filed a petition (WPS No.4293/2017) before this Court against her transfer, which was finally disposed off vide order dated 07-09-2017. Representation of the respondent No.4 was considered and in compliance of the directions issued by this Court, the authorities have now cancelled the transfer order with the result that the petitioner and respondent No.4 have again come back to their respective places. Therefore, as far as impugned order is concerned, learned State counsel submits that no default can be found with the order.

5. Learned counsel for respondent No.4 submits that the cancellation of transfer order passed on 14-08-2017 has taken place in view of consideration of representation of respondent No.4, in view of the direction issued by this Court earlier in the petition filed by the respondent No.4.

6. It appears that the transfer order dated 14-08-2017 has been cancelled by the State Government stating that the representation of the respondent No.4 was considered as per the judicial directions. This Court, while disposing off the petition filed by the respondent No.4 vide order dated 07-09-2017 had rejected the arguments of malafide accommodation and also observed that Smt. Jaya Tiwari had become due for transfer, because she had remained posted for almost seven years. It is stated that two places of transfer are not far away and hardly 35-40 K.M. away. By no standard, the State Government was justified in cancelling the transfer order, because direction of this Court was only to consider representation and not to mechanically allow the representation. State

Government has not come out with any reason for passing cancellation of transfer order. The petitioner had completed three years of posting at Patan. The respondent No.4 had completed 7 years of posting at Khamhariya and the distance between the two places is hardly 35-40 K.M.

7. Therefore, in these circumstances, the impugned order dated 17-01-2018 appears to be completely contrary to administrative exigency. The impugned order is therefore, set aside.

8. In the result, the petition is allowed.

Sd/-
(**Manindra Mohan Shrivastava**)
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