

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1479 of 2018

Shyam Bihari Gupta S/o Late Shri Bhagwan Das Gupta Aged About 57 Years
Posted As Teacher Panchayat At Government Primary School, Gorakhpur, Janpad
Panchayat Gaurella, District Bilaspur Chhattisgarh., District : Bilaspur,
Chhattisgarh
---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Principal Secretary Education Department,
Mahanadi Bhawan New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. The Chief Executive Officer, Janpad Panchayat Gaurella, District Bilaspur
Chhattisgarh., District : Bilaspur, Chhattisgarh
...**Respondents**

For Petitioner	:	Mr. Rakesh Pandey, Advocate
For State	:	Mr. Chandresh Shrivastava, PL

Hon'ble Shri Justice P. Sam Koshy

Order On Board

21.02.2018

1. The challenge in the present writ petition is to the order dated 06.12.2017 (Annexure P/1) transferring the petitioner from the Primary School Gaurella to Primary School Chotkirewar both under the Janpad Panchayat Gaurella.
2. Learned counsel for the petitioner challenges the order of transfer stating that the petitioner has been declared surplus without complying with the necessary requirement under the policy framed by the State Government. He further submits that even otherwise, there does not seem to be any administrative exigency which suddenly has crept up at the time of the exam season which was not existing for the entire year and thus prayed for quashing of the impugned order on this ground. He further submits that some similarly placed persons had under similar circumstances filed a writ petition before this Court where granting an order of status quo, this Court had directed the petitioner therein to approach the concerned authority by raising a representation, who in turn, shall decide the same.
3. The State counsel, however, opposes the petition and submits that present is an

impugned order which has been passed taking into consideration the availability of the teachers in the different schools and therefore, it cannot be said to be either malafide or arbitrary in any manner.

4. Having heard the submission of learned counsel for the parties and contents of the present writ petition, both clearly reflects that the order of transfer under challenged is one which was issued in December, 2017. The ground mentioned by the respondents is that the school where the petitioner has been posted, does not have sufficient teacher. This Court fails to understand what the authority were doing for the whole year and now suddenly when the exam season have come, the transfer order has been issued. It appears that the authority and the State did not take into consideration the requirement of the teachers for the whole academic year till December, 2017 when suddenly during peak exam season, the impugned order have been passed.

5. Given the said factual matrix of the case, this Court is of the opinion that ends of justice would meet if the petitioner is permitted to file a detailed representation before respondent No.2 permitting to take the grounds which have been raised in the present petition and the policy of transfer which is applicable. Let the representation so be filed within a period of 10 days from today and the authority concerned thereafter shall decide the matter within a period of 6 weeks from the date of receipt of the said representation. Meanwhile, till the representation is decided by the authority concerned, the status quo, as it exists today, in respect of the petitioner's posting, shall be maintained.

6. The writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge