

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4940 of 2018**

M.P. Khare S/o Shri Dayaram Khare Aged About 55 Years Presently Posted As Sub-Divisional Officer, Rural Engineering Services, Sub-Division Bhopalpatnam District- Bijapur, Chhattisgarh, R/o Bhopalpatanam District- Bijapur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary Department Of Rural Engineering Services Mantralaya, Mahanadi Bhawan, Naya Raipur, District- Raipur, Chhattisgarh.
2. Superintendent Engineer Rural Engineering Services, Bastar Division Jagdalpur District- Jagdalpur, Chhattisgarh.
3. Executive Engineer Rural Engineering Services Division Bijapur, District- Bijapur, Chhattisgarh.
4. Chief Executive Officer Zila Panchayat Bijapur, District- Bijapur, Chhattisgarh.
5. S.R Vishkarma Sub- Engineer, Rural Engineering Services, Sub-Division Bhopalpatanam District- Bijapur, Chhattisgarh.

----Respondents

For Petitioner	:	Mr. Mateen Siddiqui, Advocate
For State	:	Mr. Syed Majid Ali, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/08/2018**

1. The order under challenge is Annexure P/1 dated 18.06.2018, whereby the services of the petitioner working as a Sub-Divisional Officer under the Rural Engineering Services, Sub Division Bhopalpatanam has been attached to the Rural Engineering Services, Sub Division Usoor, Aawapalli, District Bijapur by an order issued by the Chief Executive Officer, Zila Panchayat, Bijapur.
2. The challenge in the present writ petition is that the Government vide order dated 04.06.2001 and the order which still holds good has banned attachment of the officers from one place to another.

3. The contention of the counsel for the petitioner even otherwise is that the order of posting also could not have been determined by the Chief Executive Officer, Zila Panchayat so far as the petitioner is concerned, who otherwise is a substantive officer of the Rural Engineering Services and it is only the State Government who could decide the place of posting of the petitioner.
4. This aspect is not controverted by the State counsel, though the counsel tries to justify the action by stating that the impugned order seems to be an order passed under administrative exigency taking into account the length of service of the petitioner at the present place of posting.
5. Once when it is undisputed that the Chief Executive Officer, Zila Panchayat was incompetent to decide the posting of the petitioner, and secondly when it is also not in dispute that the Government has literally put a ban on officers being attached from one place to another place, the impugned order to that extent is not sustainable, howsoever justified the reasons there may be for attachment. Such orders could only be issued by the competent authorities under the State Government by way of issuance of transfer orders.
6. Reserving the right of the respondents for issuing suitable orders, the impugned order so far as the petitioner is concerned, stands set-aside/quashed, consequences to follow.

Sd/-
(P. Sam Koshy)
Judge