

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5597 of 2018**

Rajendra Prasad Shukla S/o Makhan Lal Shukla Aged About 57
Years R/o Behind Tahsil Officer Pamgarh, District Janjgir Champa,
Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Education Department,
Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Director Public Education, Indrawati Bhawan, Naya Raipur, District
Raipur, Chhattisgarh
3. Regional Director, N.I.O.S., Raipur Chhattisgarh
4. District Education Officer, District Janjgir Champa, Chhattisgarh

---- Respondents

For Petitioners	:	Shri H. V. Sharma, Advocate
For State	:	Shri Majid Ali, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****29.08.2018**

The challenge in the present writ petition is to Annexure P-1 dated 12.08.2018 whereby the petitioner has been posted from Govt. Higher Secondary School, Pamgarh, District Janjgir-Champa to Govt. Higher Secondary School Choriya, Block Bamhanindih.

2. The challenge to the impugned order is on four grounds. First is that it has not been passed on account of any administrative exigency but has been passed on account of an alleged complaint. Second ground is that all

the allegations which have been levelled against the petitioner are totally false and fabricated without any substantial material. Third is that extraneous materials have been taken into account by the respondents for issuing the impugned order. Lastly, the order of transfer has not been with the approval of the higher authorities in the Department. For all these reasons the impugned order is not sustainable.

3. Perusal of the record would show that the reason for change of posting of the petitioner has been clearly spelt out by the District Education Officer. A plain reading of the averments of the impugned order of posting would reveal that there were serious allegations against the petitioner which in the course of preliminary enquiry were found to be correct. Under the said prevailing circumstances, if the respondents have taken a decision for posting the petitioner from a different place to avoid an embarrassing situation for the Education Department the same cannot be found fault with nor can it be held to be either malafied or bad in law.

4. So far as the allegations are concerned, unless the authorities take up the matter against the petitioner in a disciplinary proceeding, the petitioner should not have any prejudice in respect of the same. The petitioner would be at liberty to challenge the finding and the allegations in case if the Department intends to proceed in a disciplinary proceeding against the petitioner. This Court for the moment would not go into the allegations and the merits of the allegations. This Court only scrutinizes whether the respondents under the given circumstances were justified issuing the order of posting Annexure P-1 or not which in the opinion of this Court is neither bad in law nor can it be said to be with malafide intention.

5. Considering the nature of allegations (which in the opinion of this

Court is quite serious, if the District Education Officer has on the administrative side decided to change the posting of the petitioner from Pamgarh to Choriya, the same cannot be said to be in any manner arbitrary or vindictive, rather it would be a case where the order has been passed on the administrative side taking into consideration the larger interest of the students studying in the school where the petitioner was a teacher.

6. Given the aforesaid facts and circumstances of the case, this Court does not find any strong case for interfering with the impugned order. However, the petitioner has already made a representation to the Department in this regard. The respondents authority would be free to decide the said representation in accordance with the merits of the case. Considering the matter to be of posting it is expected that an early decision on the representation of the petitioner would be taken by the authority concerned.

7. With the aforesaid observation, the writ petition stands dismissed.

**Sd/-
P. Sam Koshy
Judge**