

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 8110 of 2018**

Devesh Kumar Borkar S/o Shri Yashwant Rao Borkar, Aged About
27 Years R/o Village Dheka, Masturi Road, Bilaspur, District Bilaspur,
Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, Atal Nagar New Raipur, Chhattisgarh
2. Chief Executive Officer, Zila Panchayat, Baster District Baster, Chhattisgarh
3. Chief Executive Officer, Janpad Panchayat, Tokapal, District Baster, Chhattisgarh

---- **Respondents**

For petitioner	:	Shri Somkant Verma, Advocate.
For State	:	Shri Chandresh Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/12/2018

1. The challenge in the present writ petition is the inaction on the part of the respondents in not relieving the petitioner to the transferred place pursuant to an order of transfer dated 14.08.2017 whereby the petitioner has been transferred from District Bastar to District Bilaspur.
2. Present is a second round of litigation. In the earlier round, the petitioner had filed a writ petition registered as WPS No. 6697 of 2018 which was disposed of by this Court on 08.10.2018 directing the respondents to ensure that the petitioner be released forthwith in

compliance of the order of transfer. It was made very clear that the petitioner would be relieved forthwith unless the State has not modified, varied or cancelled the impugned order of transfer. Pursuant to the disposal of the writ petition by this Court, respondent no.2 has passed the order Annexure P1 dated 29.10.2018 directing respondent no.3 to take steps for compliance of the order passed by this Court.

3. Counsel for the petitioner submits that the petitioner has already preferred a contempt petition against the respondents for the alleged willful non-compliance of the order passed by this Court on 08.10.2018.
4. So far as Annexure P-1 is concerned, it is only a correspondence made by respondent no.2 to respondent no.3. The order Annexure P-1 is not an order whereby the directives given by this Court have been refused to be honoured. This Court has no hesitation in holding that there was a specific direction to the respondents to ensure that the petitioner be relieved at the earliest. Once there is a specific direction, there can be no circumstances under which the order can be violated by the respondents. If at all if the respondents find difficulty, they should have moved an application in the same writ petition. The respondents do not have any right to sit over the order passed by this Court. While passing the order on 08.10.2018, this Court did not pass an order to ensure that the petitioner would be relieved only on receipt of a reliever, rather the direction was for immediate issuance of relieving order in favour of the petitioner unless the order of transfer has been modified, varied or cancelled. The order passed by respondent no.2 perhaps is totally uncalled for.

Even otherwise once there is an order of transfer passed as early as on 14.08.2017, this Court fails to understand as to why though more than 15 months have passed, the respondents have not been able to get a substitute for the petitioner. This shows the incompetency of the authorities while passing the order of transfer. The transfer order being in force till date, it has to be complied with by the respondents taking appropriate administrative decision. The order of transfer cannot be rendered to get redundant without it being complied with or it would reflect that the order has been passed without there being any administrative exigency.

5. Let this matter be placed before respondents 1 & 2 at the earliest to ensure that the order dated 14.08.2017 and the order passed by this Court on 08.10.2018 be complied/honoured at the earliest preferably within a period of 45 days from the date of receipt of copy of this order.
6. The writ petition accordingly stands allowed and disposed of.

Sd/-

**(P. Sam Koshy)
JUDGE**