NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 8371 of 2018

Chabi Lal Bhuarya S/o Late Gangaram Bhuarya, Aged About 55 Years, At Present Working As Project Officer, Women And Child Development, Dondhi- II, Balod, District- Balod, Chhattisgarh, R/o Shiv Colony, Balod, District- Balod, Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Department Of Women And Child Development, Mahanadi Bhawan, Raipur, District- Raipur, Chhattisgarh.
2. Under Secretary, Department Of Women And Child Development, Mahanadi Bhawan, Raipur, District- Raipur, Chhattisgarh.
3. Joint Secretary, Department Of Women And Child Development, Mahanadi Bhawan, Raipur, District- Raipur, Chhattisgarh.
4. Distirct Women And Child Development Officer, Balod, Disrtict- Balod, Chhattisgarh.

---Respondent

For petitioner : Shri Shobhit Koshta, Advocate.
For State : Shri Chandresh Shrivastava, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13/12/2018

1. Present is the second round of litigation.

2. The issue revolves around an order of transfer dated 05/09/2018 whereby the respondents have transferred the petitioner from Dondhi, District Balod to Bhairamgarh, District Bijapur.

3. The petitioner had immediately challenged the same vide WPS No. 6129/2018 and this Court disposed off the said Writ Petition on 19/09/2018 directing the respondents to consider the representation of the petitioner and

till the representation was decided, an interim protection from being transferred was also granted. Pursuant to that, the present impugned order dated 05/12/2018 has been passed rejecting the order of transfer.

4. The contention of the counsel for the petitioner is that, the interim protection earlier granted by this Court was on the ground that, since the petitioner is aged more than 55 years, the petitioner now could not have been transferred to a Scheduled Area more particularly when the petitioner as it is was working in a Scheduled Area.

5. This contention of the counsel for the petitioner was based on the policy of the State Government dated 03/06/2015.

6. The representation of the petitioner has been rejected on the ground of large number of vacancies existing in Scheduled Area.

7. The second ground was that, the order of transfer was issued at the behest of the Election Commission considering the recent Assembly Elections.

8. The counsel for the petitioner at this juncture submits that, both these grounds would not be applicable so far as the petitioner is concerned for the reason that, the petitioner as it is was working in Scheduled Area and is transferred from one Scheduled Area to another Scheduled Area. There is no replacement made in place of the petitioner.

9. The contention which the respondents have raised of there being large number or vacancies in the Scheduled Area would remain even if the petitioner complies with the order, as the present place of posting also is

Scheduled Area. Thus, the said justification given by the respondents in their impugned order is not sustainable.

10. So far as transfer being made at the behest of the Election Commission is concerned, the said ground is no-longer in existence for the reason that, the election duty and the election work is all complete.

11. Given the aforesaid facts and circumstances of the case this Court is of the opinion that, the impugned order is not sustainable on these two grounds and the respondent authorities are directed to reconsider the case of the petitioner keeping in view the policy decision of the State Government pertaining to the transfer and also taking note of the fact that the election duties are all over by now and as such the said exigency does not exist any further.

12. Let the respondents reconsider the case of the petitioner within a period of 60 days from today.

13. Meanwhile, the effect and operation of the transfer order dated 05/09/2018 so far as the petitioner is concerned shall not be given effect to.

14. The Writ Petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit