

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.439 OF 2019**

Sarla Bairagi D/o Nagendra Nath Bairagi, R/o New Market, Mana Camp
District- Raipur, Chhattisgarh.

...Petitioner(s)

Versus

1. State Of Chhattisgarh Through The Secretary, Health And Family Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur, Chhattisgarh.
2. The Chief Medical And Health Officer, Raipur, District- Raipur, Chhattisgarh.
3. The Block Medical Officer, Community Health Centre, Dharsiva, District- Raipur, Chhattisgarh.
4. Sarita Dhidhi W/o Ratan Dhidhi R/o In Front Of Panchayat, Village Seri Khedi, Dharsiva, Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Akash Kundu, Advocate.
For Respondent-State	:	Shri Saleem Kazi, Dy. Advocate General along with Dr. K.S. Shandilya, CMHO, Raipur.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05.02.2019

1. Challenge in this petition is to the order dated 03.01.2019 (Annexure P/1) whereby the petitioner while working as Rural Health Organizer and posted at Serikhedi, Dharsiwa, was transferred to Chandkhuri, Arang.
2. The impugned order shows that the order of transfer has been made on a mutual consent by the petitioner with respondent No.4. The present petition has been filed with a specific ground that the petitioner had never given any such consent for the transfer.
3. This court, to ascertain the same, had called upon the respondent No.2 to apprise the court as to whether any such consent was given by the petitioner or not. Dr. K.S. Shandilya, CMHO, Raipur- Respondent No.2 herein, present in the court, on perusal of records instructed the Deputy Advocate General representing the State that there has been no such consent taken or received either from the petitioner or from the respondent No.4.

4. On the categorical statement made by the State counsel on instructions from the respondent No.2 who is present in person before the court, this court is of the opinion that the impugned order dated 03.01.2019 (Annexure P/1) thereby is not sustainable and this court has no hesitation in reaching to the conclusion that the order has not been made on administrative grounds. On the said instruction alone, the impugned order dated 03.01.2019 stands set aside/quashed with consequence to follow.
5. The respondent No.2 shall immediately take steps ensuring that the petitioner stands posted back at her original place of posting. However, it is made clear that the quashment of the impugned order would not preclude the respondents from passing a fresh order in accordance with transfer policy and the guidelines of the State Govt. in the event administrative exigency so requiring.
6. The writ petition accordingly stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge