

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 549 of 2019

R.S. Rathore S/o Late Hanuman Prasad Rathore, Aged About 61 Years, Presently Posted As Sub Divisional Officer, R.E.S. Sub Division Kawardha, District Kabirdham, Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. Chhattisgarh State Election Commission, Through Chief Election Officer, D.K.S. Bhavan, Old Mantralaya, Raipur, Chhattisgarh.
3. Collector And District Election Officer, District Kabirdham, Chhattisgarh.
4. Manoj Soni, Sub Engineer, R.E.S. Sub Division Kawardha, District Kabirdham, Chhattisgarh.

---Respondents

For petitioner	:	Shri Hemant Kesharwani, Advocate.
For State	:	Shri Jitendra Pali, Dy.A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

25/01/2019

1. The challenge in the instant Writ Petition is to the order Annexure-P/1 dated 17/01/2019. Vide the said impugned order, the services of the petitioner who substantially is an Assistant Engineer working in the Rural Engineering Services has been attached to the office of the District Election Office, Kabirdham for completion of election related work.
2. The contention of the counsel for the petitioner is that, the Collector firstly is not competent to have attached the services of the petitioner as the petitioner is Class-II grade officer and the Collector is not the competent

authority for passing an appropriate order particularly that of attachment. He further contended that, even otherwise, the Collector in the capacity of the District Election Officer could have passed such an order only after the election program has been modified by the State Government which till date has not been issued. Likewise, the counsel for the petitioner also questioned the authority of the Collector on the ground that, the attachment as on date is totally banned by the State Government and the said impugned order of attachment is thus contrary to the policy of the State Government itself.

3. Having gone through the contents of the petition and record what clearly reflect is that, the petitioner has been attached to the office of the District Election Officer by an order of the District Election Officer himself. Under the Representation of the People Act, 190, the District Election Officer has got wide powers to co-ordinate and supervise of work in the district or in the area within his jurisdiction in connection with the conduct of election both parliament as well as in the State assembly.

4. Perusal of the impugned order would reveal that, in order to take some election related work for the Loksabha Election to be held within 3-4 months time, the Collector i.e. in the capacity of the District Election Officer has passed an order attaching the services of the petitioner for election work in the District Election Office, Kabirdham.

5. Such an order so passed by the District Election Officer cannot be said to be one which would be hit by the provision of Section 28-A of the Representation of the People Act, 1950.

6. It is also not the case where the petitioner as such would be put to any substantial inconvenience by the said order as he has been accommodated within the same place where he is working i.e. at District, Kabirdham.

7. So far as the grounds which the counsel for the petitioner has raised would not be applicable in the instant case as it is not a usual order of attachment that the Collector has made, rather it is an order of attachment for specific purpose and after the purpose is achieved, the petitioner would automatically be sent back to his substantive place of posting i.e. to the Rural Engineering Services.

8. Given the aforesaid facts and circumstances of the case, this Court does not find any strong case made out by the counsel for the petitioner calling for an interference with the impugned order.

9. The Writ Petition thus fails and is accordingly rejected.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit