

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 844 of 2019

Aman Jain S/o Shri Daulat Ram Jain, Aged About 48 Years Occupation Block Education Officer Antagarh District- Bastar Kanker, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Education, Mahanadi Bhawan, Post Office Mantralaya, P.S. Rakhi, Atal Nagar, District- Raipur, Chhattisgarh.
2. The Director Public Instruction Department, Indravati Bhawan, Post Office Mantralaya, P.S. Rakhi, Atal Nagar, District- Raipur, Chhattisgarh.
3. The Under Secretary Department Of Education, Mahanadi Bhawan, Post Office Mantralaya, P.S. Rakhi, Atal Nagar, District- Raipur, Chhattisgarh.
4. The Collector/district Election Officer (General) Uttar Bastar Kanker, Chhattisgarh.
5. The Sub-Divisional Officer (Revenue) Election Registration Officer Antagarh, District- Uttar Bastar Kanker, Chhattisgarh.
6. The District Education Officer Uttar Bastar Kanker, District- Uttar Bastar Kanker, Chhattisgarh.
7. Shri Radhey Shayam Dewangan (Head Master) Assistant Project Co-Ordinator, Rajiv Gandhi Shiksha Mission, District- Narayanpur, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Vipin Tiwari, Advocate
For State	:	Mr. Arvind Dubey, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/02/2019

1. The present is a second round of litigation. The challenge is to the order dated 04/10/2018 (Annexure P-1) and also to the order dated 31/01/2019 whereby the petitioner has since been relieved from service. The petitioner at the first instance vide Annexure P-1 was transferred from the post of Block Education Officer, Antagarh District, Uttar Bastar Kanker to the post of the Block Education Officer, Bastanar District, Bastar.
2. The ground of the challenge at the first round was on the ground that the petitioner since was assigned election duties for the Assembly Election,

which was held in the month of November, 2018, the petitioner should not be relieved till the election duties are complete.

3. This Court, while disposing of the writ petition relying upon the instructions of the Election Commission, had restrained the respondents from relieving the petitioner till the assigned election duties are over.
4. The grievance of the petitioner now is that the petitioner again has been continued with the election duties pursuant to the Lok Sabha Elections which are likely to be held in about 2-3 months' time and therefore, the petitioner again should be permitted to continue at the present place of posting till the election duties are over.
5. This Court is not inclined to accept the argument of the petitioner for the reason that at the first instance when the writ petition was entertained, it was purely in respect of the election, which was to be held in about one month's time from the date of impugned order of transfer. Moreover, the petitioner was appointed as an Assistant Nodal Sweep at the relevant point of time. As on date, the election notification for the Lok Sabha election has till date not been published.
6. In view of the same, this Court does not find it to be a case which could be brought within the ambit of the instructions which was issued by the Election Commission. The duties which the petitioner is discharging is by virtue of the post that he was holding. The order passed by this Court on the earlier occasion, while disposing of the WPS No. 6949/2018 was clearly confined only till the Assembly Election was over. It was never meant to be continued even beyond that. This Court therefore, does not find a strong case to continue with the interim protection earlier granted to the petitioner on the same ground.

7. So far as the second ground, which the petitioner has raised in respect of respondent No.7 not being competent or qualified to hold the post of a Block Education Officer is concerned, that ground may not be available for the petitioner to raise, as the petitioner who is a Block Education Officer is being sent as a Block Education Officer.
8. So far as the place, which fell vacant on the petitioner's moving, it is for the respondents to decide as to who would be proper person to hold the said office. The service condition of the petitioner would not in any manner get adversely affected, if the post of the Block Education Officer of Antagarh is held by any other person, even if he does not fulfill the eligibility criteria for the said post. That aspect would be left open for the State Government to look into and to take appropriate decision.
9. The present writ petition for the aforesaid reasons fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge