

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 1980 of 2019

Jitendra Kumar Patel S/o Shri Lakhan Lal Patel, Aged About 31 Years,
R/o Anand Nagar, Bhairotal, Post Bhairotal, Police Station Kusmunda,
Tahsil Katghora, District Korba, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya, Police Station And Post Rakhi, Atal Nagar, District Raipur Chhattisgarh
2. The Collector (Land Record) Office Of Collectorate, Korba, District Korba, Chhattisgarh
3. The Sub Divisional Officer (S.D.O.) Office Of S. D. O, Department Of Revenue, Korba, District Korba, Chhattisgarh
4. Tahsildar, Podi Uroda, District Korba, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Santodh Kumar Pandey, Advocate
For State	:	Ms. Shriya Mishra, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/03/2019

1. The challenge in the present writ petition is to the order Annexure P-3 dated 28.02.2019 whereby the services of the petitioner have been transferred from District Korba to District Sukma.
2. The contention of the counsel for the petitioner is that the petitioner being a Patwari was appointed under Section 104 of the CG Land Revenue Code and the appointing authority being the Collector, post of the Patwari becomes a district cadre and the petitioner's services could

not have been transferred by an order of the State Govt. According to the petitioner, if at all if the services of the petitioner were to be transferred, it could have been done only by the Collector and that too within the district and not outside the district.

3. Further grievance of the petitioner is that by the change of district, the seniority of the petitioner is likely to get adversely affected thereby the promotional avenue of the petitioner would also get affected. Counsel for the petitioner submits that in the impugned order, the place of posting of the petitioner has been shown at the office of Land Records whereas the petitioner was not an employee who was working in the department of the land record but was working as a Patwari at Patwari Halka No.34 & 50 (Additional Charge) in District Korba. He further contends that the Patwaris were never posted in the Department of Land Records. Thus, the transfer of the petitioner does not seem to be on administrative exigency and the same deserves to be set aside/quashed.
4. State counsel, however, opposing the petition submits that it is a case where the State Govt. has all the powers for transferring an employee that of a Patwari also from one district to another district in case if special circumstance so prevails.
5. Having heard the contentions put forth on either side and on perusal of the record, this Court is of the opinion that ends of justice would meet if the petitioner makes a detailed representation to the respondent no.1 and on such representation being made, respondent no.1 in turn shall consider and decide the ground of competency of the State Govt. in issuing the order of transfer and also decide the ground of his seniority and promotion getting adversely affected. On the said representation

being made within a period of 10 days from the date of receipt of copy of this order, respondent no.1 in turn shall consider and decide the same on its merit at the earliest preferably within a period of 45 days thereafter. Till the representation of the petitioner is decided, the effect and operation of the impugned order so far as the petitioner is concerned shall remain stayed.

6. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Khatai