

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 3075 of 2019**

Smt. Usha Choubey D/o Late Shri Jagdish Choubey Aged About 45 Years
 Shikshan (Panchayat) R/o Near Power House, Namnakala Ambikapur,
 Police Station Gandhi, Nagar, Tahsil Ambikapur, District Surguja
 Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mantralata, Mahanadi Bhawan, Atal Nagar (New Raipur) District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. The Secretary School Education Department, Mantralaya Mahanadi Bhawan, Atal Nagar, (New Raipur) District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. The Director, Directorate Of Panchayat And Rural Development, Indrawati Bhawan, Atal Nagar, (New Raipur), District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. The Collector District Surguja Ambikapur Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
5. Chief Executive Officer Jila Panchayat Surguja (Ambikapur), District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
6. District Education Officer District Surguja Ambikapur Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
7. District Mission Co- Ordinator Rajeev Gandhi, Shiksha, Mission Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
8. Block Education Officer Block Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
9. Head Mistress, Middle School Devgarh, Block Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
10. Shri Tarun Singh Ad Hoc Sankul Samanvayak Sankul Kendra Asola, Block Ambikapur District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Manoj Mishra, Advocate
For State	:	Mr. Anshuman Shrivastava, PL

Hon'ble Shri Justice P. Sam Koshy
Order on Board

26/04/2019

1. The challenge in the present writ petition is to the order Annexure P-1 dated 18/06/2018 whereby the services of the petitioner has been transferred from Medical School, Devgarh Block Ambikapur, District Surguja to Medical School Kesara Block Mainpat District Surguja.
2. Counsel for the petitioner submits that impugned order of transfer has been challenged on the ground that the same has been issued with malafide intention by the authorities in the department. The contention of the petitioner is that the petitioner had been subjected to false implications in a criminal case at the behest of one Smt. Kalpana Sahu, Head Mistress of the School at Sunderpur, Block Ambikapur and subsequently she was also prosecuted for the said act in a criminal case, for which a complaint was lodged at the Police Station Manipur, Ambikapur. The petitioner was prosecuted for the offence punishable under Section 294, 323, 506 of the IPC. According to the petitioner the criminal case has finally resulted in the acquittal of the petitioner. Meanwhile, the petitioner was placed under suspension and this order of suspension was also revoked and thereafter the petitioner working at the present place of posting the impugned order abruptly has been passed transferring petitioner to a different place.
3. According to the petitioner the place of posting is far off remote place and a Jungle area where it would not be proper for the petitioner- a

lady being posted particularly when the area is badly inflicted with elephants. Counsel for the petitioner further submitted that once when the criminal Court has acquitted the petitioner and the department also has subsequently taken a decision to drop the departmental enquiry initiated against the petitioner, for all practical purposes the petitioner should have been reinstated at the same place where she was working prior to issuance of the order of suspension as also prior the initiation of the departmental enquiry.

4. So far as the grounds for challenge is concerned, this Court is of the opinion that all those grounds which have been raised by the petitioner are not sufficient enough to invoke the power of judicial review by this Court while testing the veracity of an order of transfer.
5. So far as the order of transfer is concerned, it is by now well settled principle laid down by the Supreme Court as also by this Court wherein it has been held that the transfer is an incident to service and it is always prerogative of the respondents to decide when, where and for what period a person should be posted taking into consideration the overall administrative exigency and the need.
6. As regards, the perusal of the order Annexure P-1 dated 18/06/2018 is concerned, this Court finds that the present writ petition has been filed after about more than 10 months from the date the impugned order was passed. No plausible explanation has been provided by the petitioner for challenging for challenging the order of transfer after a period of 10 months.
7. In view of the fact that the petitioner has challenged the order of transfer after a period of 10 months and for this 10 months period

the petitioner has not complied with the same clearly reflects the conduct of the petitioner.

8. So far as the personal inconvenience and grievance that an employee may have on the execution of the transfer order, the redressal of the same could be made only by the officers in the department and not by this Court in exercise of its power of judicial review under Article 226 of the Constitution of India.
9. This Court further from the pleadings finds though the petitioner has taken a ground of malafides in the writ petition but those officers against whom the malafides are attributed have not been made a party in petition. Further from the pleadings it also reveals that immediately after the impugned order Annexure P-1 was passed the respondents have also granted the charge of Cluster Academic Co-ordinator to the respondent No. 10 who has also since assumed the duties.
10. Given all these facts and circumstances, this Court does not find any strong case made out by the petitioner for interfering with the impugned order of transfer leaving it open for petitioner to approach the authorities in the department by making suitable representation for change of posting. The respondents in turn may consider the same in accordance with the administrative exigency and also on the basis of policy regarding transfer applicable in the department.
11. The writ petition accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
Judge