

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 5038 of 2019

Ashish Dhar Diwan S/o Shri Chandra Dhar Diwan Aged About 34 Years
Patwari, P. H. N. 37, Head Office Village Tulsideeh, R. N. M. Bhainsma,
Tahsil And District - Korba Chhattisgarh. Permanent Address - Housing
Board Colony, Barbaspur, Block No. 3, Quarter No. D, Post - Kudurmal,
Ward No. 6, District Korba Chhattisgarh.

---- Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Department of Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya, Police Station And Post - Rakhi, Nawa Raipur, Atal Nagar, District - Raipur Chhattisgarh.
2. Collector (Land Records) District Korba Chhattisgarh.
3. Sub Divisional Office (Revenue) Korba District Korba Chhattisgarh.
4. Tehsildar, Korba District Korba Chhattisgarh.

---Respondents

For Petitioner	:	Shri Santosh Kumar Pandey, Advocate.
For State	:	Shri Chandresh Shrivastava, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10.07.2019

1. The petitioner has assailed the order dated 01.07.2019 whereby posting of the petitioner has been shifted from Tehsil Korba to Sub-Tehsil Pasan in district Korba itself.
2. The contention of the petitioner is that, the impugned order is an order of transfer and the same is in contravention to the transfer policy of the State itself dated 27.06.2019. Further contention of the petitioner is that, the petitioner being the Tehsil President of Rajaswa Patwari Sangh, Chhattisgarh, he would fall within the protected category from being transferred. It was further the contention of the petitioner that the order of transfer is also bad in law for the reason that the impugned order of transfer could have been passed only with the approval of the Minister in-charge of the District and in the instant case no such approval has been obtained from the concerned Minister and therefore the same would be bad in law.
3. The State counsel, on the other hand, submits that it is only a posting order and not transfer order. That, the impugned order also does not warrant

interference as it is only a transfer from one Tehsil to another Sub-Tehsil. The distance between the two is also not one which would create any inconvenience to the petitioner. According to State counsel, the order of transfer has been issued by the competent officer under the rules governing the service conditions of the petitioner and for all these reasons the writ petition deserves to be rejected.

4. Having heard the contentions put forth on either side and on perusal of records, particularly taking note of the fact that distance between the two place is too short, the order of transfer has been issued by the competent authority under the rules and therefore merely because the order does not have an approval of the portfolio Minister of the district by itself would not vitiate the order of transfer made on administrative exigency. It has been repeatedly held by the Supreme Court that policy of transfer framed by the State Govt. is only a guideline which would not, as such, have a statutory force of law, nor can it be said to be mandatorily followed. On a query being put to the counsel for the petitioner, he fairly admits that the petitioner has already remained posted at the present place for about more than one year.
5. Giving the aforesaid reasons, this court does not find a strong case made out by the petitioner calling for interference with the order of transfer/posting. However, in case if the petitioner wants change of posting, he would be at liberty to move appropriate representation before the concerned respondents in addition to the representation that he has already made, and the respondents would be free to take a decision on the said representation at the earliest.
6. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge