

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 5130 of 2019**

Smt. Shail Sahu W/o Shree Gulab Sahu, Posted As Assistant Teacher At  
Primary School, Jugdehi, District Dhamtari, R/o Gram / Post Palari, Tehsil  
Gurur, District Balod., District : Balod, Chhattisgarh

**---- Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development, Department, Mahanadi Bhawan, Atal Nagar Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Chief Executive Officer Zila Panchayat Dhamtari District Dhamtari Chhattisgarh., District : Dhamtari, Chhattisgarh
3. Chief Executive Officer Janpad Panchayat, Kurud, District Dhamtari Chhattisgarh., District : Dhamtari, Chhattisgarh
4. District Education Officer District Dhamtari Chhattisgarh., District : Dhamtari, Chhattisgarh
5. Smt. Toran Nagvanshi Posted As Assistant Teacher Panchayat, Government Primary School, Sirsida, District Dhamtari Chhattisgarh., District : Dhamtari, Chhattisgarh

**---- Respondents**

|                |   |                               |
|----------------|---|-------------------------------|
| For Petitioner | : | Mr. Mateen Siddiqui, Advocate |
| For State      | : | Mr. Arvind Dubey, PL          |

**Hon'ble Shri Justice P. Sam Koshy****Order on Board****15/07/2019**

1. The challenge in the present writ petition is to the order Annexure P-1 whereby the petitioner has been relieved to report back on duty at Primary School, Mandabharri, Block Narharpur, District North Bastar, Kanker.
2. The facts of the case is that the petitioner was initially appointed as Shiksha Karmi Grade – III on 28.12.2010. The petitioner had moved an application for transfer to District Dhamtari. Subsequently, along with the

respondent No. 5 there was an application for mutual transfer inter se between the petitioner and the respondent No. 5. Respondents issued an NOC on 12.02.2018 Annexure (P-3).

3. Based on the NOC, provided by the department, the petitioner and the respondent No. 5 stood transferred on mutual basis vide order dated 22.06.2018. The petitioner stood relieved from her place at Primary School, Mandabharri, Block Narharpur, District Kanker and she reported for duty at the transferred place i.e. Primary School, Sirsida, Block Kurud, District Dhamtari dated 25.07.2018. The petitioner since has been working at Kurud, District Dhamtari. In between vide Annexure (P-7) the place of posting was also shifted by the Block Education Officer on 02.08.2018 and the petitioner was shifted from Primary School, Sirsida to Primary School, Jugdehi. The petitioner immediately complied with the said order and also worked at Judgehi more than a year ordering repatriation of the petitioner back to the original place of posting i.e. Primary School, Mandabharri, District North Bastar, Kanker.
4. According to the petitioner since the original order of transfer dated 22.06.2018 already stood complied with on 25.06.2018 and the petitioner having worked at the transferred place for about an year, there could not have been a rolling back by the State Government sending the petitioner back to Primary School, At Mandabharri, District North Bastar, Kanker. Moreover, according to the petitioner the ground raised by the State Government is not at all sustainable as the said ground was available with the State Government w.e.f. 01.07.2018 itself and there was no reason for the State Government to have now invoked after one year.
5. State counsel however, opposing the petitioner submits that it is case where mutual transfer was made between the petitioner and the respondent No. 5. Meanwhile, the respondent No. 5 got absorbed under the respondents on 01.07.2018. On account of absorption, the vacancies

which stood then was not available for accommodating the petitioner and this has led to the issuance of the impugned order.

6. Having heard the contentions put forth on either side and on perusal of records what has to be seen is that the petitioner and respondent No. 5 got transferred much before the respondent No. 5 was absorbed under the respondents. Further that the petitioner was relieved from her earlier place of posting i.e. Primary School, Mandabharri on 24.07.2018 and gave her joining at Primary School, Kurud, Dhamtari on 25.07.2018. Since then the petitioner is working at the same place. Having permitted the petitioner to work at the present place of posting for almost a year, the respondents now has taken a decision of canceling the order of transfer which was initially issued on 22.06.2018 modifying the said order which already has been complied with by the respondents themselves.
7. Under the circumstances, this Court is of the opinion that relieving of the petitioner at this stage after a year of the compliance of the order of transfer is not proper, legal and justified and the same deserves to be and is accordingly set aside.
8. The writ petition therefore stands allowed and the impugned order stands set aside with consequences to follow.

Sd/-  
**(P. Sam Koshy)**  
**Judge**