

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7216 of 2019

1. Purushottam Koliyara, S/o - Jagatram Koliyara, Aged About 57 Years, Presently Working As Head Master In Middle School B.R.C. Block-Narayanpur, District: Narayanpur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary School Education Department, Mahanadi Bhawan, Atal Nagar, New Raipur Chhattisgarh
2. The Director, Directorate Of Public Instruction, Indrawati Bhawan, Atal Nagar, New Raipur, Chhattisgarh
3. The Commissioner, Bastar Division, District Bastar-Jagdalpur Chhattisgarh
4. The Collector, District : Narayanpur, Chhattisgarh
5. Rajeev Gandhi Shiksha Mission, Sarv-Shiksha Abhiyan, Through Its Mission Director, State Project Office, Raipur, District: Raipur, Chhattisgarh
6. The District Education Officer, District: Narayanpur, Chhattisgarh

---Respondents

For Petitioner	:	Mr. Sushil Dubey, Advocate
For State	:	Mr. Jitendra Pali, Dy. Adv. General

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06.09.2019

1. The challenge in the present Writ Petition is to the impugned of transfer order Annexure P-1 dated 31.07.2019, whereby the petitioner has been repatriated to his substantive place of posting.
2. In the impugned order, the name of the petitioner has been reflected at Sr. No. 3 posted as Head Master, Middle School B.R.C, Block:

Narayanpur has been transferred to Upper Primary School, Kahdkagaon, Block: Narayanpur.

3. The contention of the petitioner is that, the impugned order is bad-in-law for the reasons that it has been issued during the ban period.
4. According to the petitioner, the transfer could have been made by the respondent authorities only by 12th July and thereafter there was complete ban, therefore, the impugned order is bad.
5. The further contention of the petitioner is that, since there was no affirmation of the petitioner servicing as a Block Resource Coordinator. Being unsatisfactory the order of repatriation of the petitioner become bad-in-law.
6. The State Counsel opposing the petition submits that, it is not a case where the petitioner has been transferred rather.
7. According to the State Counsel, it is only a case where the petitioner was temporarily deputed to a BRC at Narayanpur, Block: Narayanpur and now vide the impugned order, he stands repatriated to his substantial place of posting ie., at the Upper Primary School, Khadkagaon, Block:Narayanpur.
8. The State Counsel submits that, by the order he is being sent to his substantive place of posting and the two place of transfer are within the same Block, as such no inconvenience would be caused to the petitioner.
9. The State Counsel further submits that, in any case, since the petitioner's service as B.R.C was of a temporary arrangement, the petitioner had no (never) indefeasible right of promotion on the said post. The petitioner could have been repatriated at any moment of

time and the respondents have now passed an order sending the petitioner back to his original place, thereby no illegality as such has been committed.

10. So far as the order of transfer having been passed during the ban period is concerned. The contention of the petitioner is that, the impugned order is not one which is an order of transfer but is an order, whereby the petitioner has been recalled from his present place of posting, which was a temporary arrangement and has only been sent to his substantive place of posting. Therefore, for such orders being issued, the transfer policy there would not come in the way nor can the impugned order be said to have been issued during the ban period.
11. Having heard the contentions put-forth on either side and on perusal of record, *prima-facie* this Court is not inclined to entertain the present Writ Petition for the reason that, the two places of transfer is within the same Block and as such, considering the distance between the two places, this Court does not find a strong case made out calling for an interference.
12. So far as the petitioner having been transferred during the ban period is concerned, since the impugned order is one wherein the petitioner has been recalled from the place where he was temporarily holding the charge and is being sent to the substantial place of posting the order cannot be strictly termed as transfer. For both reasons, this Court does not find any strong case made out to interfere with the transfer order.
13. Accordingly, the Writ Petition stands rejected.

14. The reluctance of this Court would not preclude the petitioner from pursuing a representation that is made and the authorities are expected to decide the representation in accordance with the Rules and Regulation at the earliest. It is expected that, the authorities may consider and decide the representation within an outer limit of 30 days.

15. Accordingly, the present Writ Petition stands rejected.

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