

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 7424 of 2019**

Ashwani Kumar Dhruw S/o Shri Dalganjan, Aged About 48 Years
Occupation Assistant Professor, Govt. College Nagari, District
Dhamtari, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Higher Education Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Naya Raipur Chhattisgarh
2. The Additional Secretary, Higher Education Department, Atal Nagar, Naya Raipur, Chhattisgarh
3. R. K. Rathore, Asst. Professor, Govt. College Dabhra, District Janjgir Champa, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Awadh Tripathi, Advocate
For State	:	Mr. P. Acharya, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****13.09.2019**

1. The challenge in the present writ petition is to the order Annexure P-1 dated 21.08.2019 whereby the services of the petitioner have been transferred from Govt. College Nagari, District Dhamtari to Govt. College Dabhra, District Janjgir-Champa.
2. The ground of challenge to the impugned order is that the place

where the petitioner has been transferred is more than 300 Km. away from the present place. The second ground is that the wife of the petitioner is presently posted at Dhamtari and as per the transfer policy, husband and wife, as far as possible, should be accommodated at the same station. The other ground that the petitioner has raised is that there are few places lying vacant in the nearby vicinity and if at all if the petitioner has to be transferred, he should have been transferred to those places whereby the family life could not have been disturbed.

3. Counsel for the petitioner meanwhile relied upon a few of the orders passed by this Court granting interim protection on the ground of husband and wife getting disturbed on transfer.
4. The grounds raised by the petitioner are not the grounds under which a transfer could be subjected to judicial review before the High Court under Article 226 of the Constitution.
5. The law as regards interference with an order of transfer is by now well settled by a catena of decisions wherein it has been clearly laid down by the Hon'ble Supreme Court that the transfer orders could be interfered by the High Courts or the Tribunals only in the event of the order of transfer has been made contrary to the service rules or the same has been issued by an incompetent authority or the same has been issued with either malafides or arbitrariness. In the absence of any of these grounds, the transfer order cannot be put to judicial review or tested by the High Court under Article 226 of the Constitution.

6. The relief which the petitioner seeks is one which could be granted only by the State authorities for which the petitioner has already made a representation. The reluctance of this Court in interfering with the impugned order of transfer would not come in the way of the respondent authorities in taking a decision on the application/representation which the petitioner has made particularly in respect of husband and wife being in Govt. employment.
7. The respondents are expected to decide the representation of the petitioner at the earliest considering the grounds that the petitioner has raised and the documents which have been enclosed along with the representation for interference with the impugned order.
8. The writ petition accordingly stands disposed of with the aforesaid liberty.

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