

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 7388 of 2019

Samay Lal Rathiya S/o Shri Phir Singh Rathiya Aged About 43 Years
Occupation Service - Presently Posted as Head Master, Government
Primary School, Dharam, Block Gharghoda, District Raigarh Chhattisgarh.

---- Petitioner(s)

Versus

- 1.** State of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, District Raipur Chhattisgarh.
- 2.** District Education Officer, Raigarh District Raigarh Chhattisgarh.
- 3.** Block Education Officer, Raigarh District Raigarh Chhattisgarh.
- 4.** Block Education Officer, Gharghoda, District Raigarh Chhattisgarh.

---Respondents

For Petitioner	:	Shri Sourabh Sharma, Advocate.
For State	:	Shri Anshuman Shrivastava, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17.09.2019

- 1.** The challenge in the present writ petition is to the order dated 31.08.2019 (Annexure P/1) passed by the Block Education Officer, Gharghoda, whereby the petitioner has been transferred from Govt. Primary School, Dharam, Block Ghardhoda to Govt. Primary School, Banhar, Block Raigarh.
- 2.** The contention of the petitioner is that, the order dated 31.08.2019 passed by the Block Education Officer is without jurisdiction and competence. According to the petitioner, he was initially transferred vide order dated 21.08.2019 (Annexure P/2) at his own request from Govt. Primary School, Banhar to Govt. Primary School, Dharam, Block Gharghoda. This order was immediately complied with by the petitioner and he gave his joining at the transferred place on 27.08.2019 and immediately after his joining, the Block Education Officer has now modified the place of posting and have ordered the petitioner to join at the earlier place of posting at Banhar, Block Raigarh.

3. According to the petitioner, once when the order has been passed by the State Govt. and if the order is erroneous, the said order could have been modified/amended or cancelled only by the State Govt. and it could not have been done by the Block Education Officer. It is further the contention of the petitioner that as long as the order dated 21.08.2019 is not recalled by the State Govt., that order stands good and it could not have been modified at a subordinate level, moreover when the order has already been complied with.
4. Given the said facts and circumstances of the case, let the petitioner make a representation before the respondents within a period of 10 days from today, who, in turn, shall decide the same at the earliest preferably within a further period of 45 days from the date of receipt of representation.
5. Till the representation is decided by the respondents, the impugned order dated 31.08.2019 (Annexure P/1) passed by the respondents No.3&4 shall not be given effect to.
6. Disposal of this writ petition would not preclude the State Govt. from taking appropriate steps in rectifying the error that has crept in, in the course of passing the transfer order dated 21.08.2019 (Annexure P/2).
7. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge