

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7520 of 2019

Hitendra @ Hirendra Kumar Behar S/o Shri D.P. Behar Aged About 55 Years R/o Baramkela, Tahsil Sarangarh, District Raigarh, (Chhattisgarh), District : Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, School Education Department, Mahanadi Bhawan, Atal Nagar District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
2. Mission Director Rajiv Gandhi Shiksha Mission, Raipur, District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
3. The Collector And Mission Director Rajiv Gandhi Shiksha Mission, District Janjgir Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
4. The District Mission Coordinator Rajiv Gandhi Shiksha Mission, District Janjgir Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---Respondents

For Petitioner	:	Mr. Achyut Tiwari, Advocate
For State	:	Mr. Chandresh Shrivastava, Dy. A.G.
For Respondent No.2	:	Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23/09/2019

1. The challenge in the present writ petition is to the order Annexure P/1 dated 08.08.2019 issued by the respondent No.1, whereby the order dated 14.08.2017, which already stood executed as per the petitioner has been cancelled.
2. The facts of the case is that the petitioner was transferred vide order dated 14.08.2017 as a Block Resource Person at Block Coordination Centre, Baramkela, District Raigarh to the Block Coordination Centre, Bamhndih, District Janjgir-Champa. The petitioner was not relieved to the said place, and the petitioner thereafter filed a writ petition i.e. WPS No. 5663/2018, which got disposed of 31.08.2018 and pursuant to the order of this Court in the aforesaid writ petition, the present petitioner was relieved on 15.01.2019. Though the

petitioner has not mentioned any dates but he makes a specific averment that he has since joined the services as Block Resource Person at the Block Coordination Centre Bamhnidih, District Janjgir-Champa. However, now vide the impugned order the said order of transfer of the petitioner from Baramkela, District Raigarh to Bamhnidih, District Janjgir-Champa has been cancelled.

3. Once when the order passed by the State Government stands duly executed (subject to verification of facts) the order could not have been cancelled by the respondents. If at all, if the respondents intended to change the place of posting of the petitioner. The only option available for the respondent/State was to pass a fresh order on administrative exigency in accordance with the Rules and the Policies of the State Government.
4. It is settled position of law that an already executed order cannot be cancelled, revised or modified.
5. Under the circumstances, the impugned order Annexure P/1 dated 08.08.2019 canceling the executed order dated 14.08.2017 seems to be prima-facie bad in law and illegal. Subject to verification of the aforesaid facts by the respondent No.1, the impugned order Annexure P/1 stands set-aside/quashed and the respondent authorities are reserved of their right to take appropriate decision or to pass appropriate order on administrative exigency in accordance with the Regulations and Policies governing the field.
6. With the aforesaid observations, the present writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge