

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 7810 of 2019

Jogendra Yadav S/o Shri Pito Ram Yadav, Aged about 41 Years, Posted as Panchayat Secretary at Village - Gharjiyabathan, Janpad Panchayat, Patthalgaon, District Jashpur Chhattisgarh R/o Village Tukupakhna, Post - Diwanpur, P.S. and Tahsil - Patthalgaon, District - Jashpur Chhattisgarh.

---- Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Department of Panchayat and Rural Development Mantralaya, Atal Nagar, District - Raipur Chhattisgarh.
2. Chief Executive Officer Zila Panchayat Jashpur, District - Jashpur Chhattisgarh.
3. Chief Executive Officer Janpad Panchayat Patthalgaon, District - Jashpur Chhattisgarh.

---Respondents

For Petitioner	:	Shri Harsh Wardhan, Advocate.
For State	:	Shri P. Acharya, Panel Lawyer and Shri Chandresh Shrivastava, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26.09.2019

1. Challenge in the present Writ Petition is to the order of transfer dated 04.09.2019 whereby the petitioner has been transferred from Patthalgaon to Kunkuri.
2. The ground of challenge was that firstly the order of transfer has been issued during ban period; secondly the order of transfer has been made ignoring the non recommendation of the Chief Executive Officer (for short, CEO) Janpad Panchayat, Patthalgaon where the petitioner is posted and thirdly the order has been made at the political interference, as is evident from Annexure P/3, dated 02.07.2019, which is a complaint lodged by the District Congress Committee, Jashpur, seeking for transfer of the petitioner.

- 3.** So far as ban period is concerned, the State counsel submits that the petitioner is an employee of the Panchayat Department. The Panchayat Department has its separate guidelines framed so far as Panchayat Karmies and Panchayat Secretaries are concerned and the latest circular in this regard is one which has been issued on 05.10.2019. So far as non recommendation of the CEO of Janpad Panchayat is concerned, the contention of the State counsel is that, the CEO, Janpad Panchayat has power to transfer Panchayat Secretary/Panchayat Karmi on administrative exigency in terms of the guidelines framed by the State Govt. in this regard.
- 4.** So far as Annexure P/3, the complaint lodged by the District Congress Committee is concerned, the counsel for the State submits that inspite of that, the CEO, Janpad Panchayat, Patthalgaon still has got power to transfer the petitioner from one place to another.
- 5.** However, what cannot be brushed aside is that, complainant Annexure P/3 was made on 02.07.2019, on the basis of which, recommendation from the CEO, Janpad Panchayat, Patthalgaon, was obtained and the CEO, Janpad Panchayat, Patthalgaon, has clearly given a report that the services of the petitioner is satisfactory. The fact that there is an endorsement that the services of the petitioner was satisfactory clearly gives an inference that there was no complainant on petitioner's working. Under the circumstances, the transfer being made immediately following the letter issued by the District Congress Committee seems to be more under political influence.
- 6.** Given the aforesaid facts and circumstances of the case, let the petitioner make a suitable representation to the respondent No.2 within a period of

10 days from today, who in turn, shall consider and decide the same within a further period of 45 days.

7. Till the representation of the petitioner is decided, the effect and operation of the impugned order shall remain stayed so far as petitioner is concerned.
8. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder