

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 8712 of 2019

Jitendra Kumar Hirwani, S/o. Late Shri Genduram Hirwani, Aged About 42 Years, Posted As Assistant Teacher (L.B.), Primary School, Kakrel, Rajnandgaon District Rajnandgaon Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through Secretary, Education Department, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur, Chhattisgarh.
2. Collector, Rajnandgaon, District Rajnandgaon Chhattisgarh.
3. District Education Officer, Rajnandgaon, District Rajnandgaon, Chhattisgarh.
4. Chief Executive Officer, Zila Panchayat Rajnandgaon, District Rajnandgaon, Chhattisgarh.

---- **Respondents**

For Petitioner	:	Mr. Anoop Majumdar, Advocate
For State	:	Ms. Richa Shukla, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

24.10.2019

Heard

1. This is the second round of litigation. On the first round of litigation, the transfer of the petitioner from Primary School Kakrel to Primary School Ranitalab, Churiya was challenged in WPS No.6320 of 2019 wherein the petitioner was given liberty to make a representation and subsequently, the representation has been decided by Annexure P-7.
2. It is contended that while deciding the representation, the fact that the petitioner is under the protective category as he is the office bearer has not been properly considered. It is further contended that the husband & wife be placed at the same place has also not been taken care of; therefore, the representation as has been decided by the Collector is bad i.e. the issue has not been redressed at all.

3. Perused Annexure P-7, which is the order of representation dated 09.09.2019. It is observed in the order deciding representation that the Government normally will try to keep the husband & wife at the same place, but it is not compulsion on the part of the Government to do so, it will depend on the facts of the particular case and the necessity of the transfer. Further, it has also been held that as per the Notification dated 25.08.2004, the union which have been recognized to make a correspondence with the State, their office bearer would be considered to be placed out of transfer list, that too, it is not compulsion. The reasoning so given appears to be reasonable and not arbitrary or illegal.
4. Considering the reasons assigned in the order of rejecting the representation, I do not find any ambiguity or illegality in it. The transfer being the incident of service, it is the State Government which would decide whether the particular person has to be placed or posted, unless and until the transfer shock the conscience of Court for any reason of illegality or arbitrariness. Normally the interference of the Court is not called for unless facts are shown otherwise. Accordingly, the petition is dismissed.

Sd/-
Goutam Bhaduri
Judge