

HIGH COURT OF CHHATTISGARH AT BILASPUR**CONT No. 929 of 2019**

Nimaee Modhiya S/o Shri Kumbhkaran Modhiya Aged About 29 Years
R/o Village Ektal, Post - Netnagar, Tahsil - Pussour, Police Station
Chakradhar Nagar (Raigarh), District Raigarh Chhattisgarh

---- **Petitioner**

Versus

Shri Rajendra Prasad Mandal Secretary, Department Of Panchayat And
Rural Development, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District
Raipur Chhattisgarh. (Contemnor)

---- **Respondents**

For Petitioner : Mr. S. P. Kale, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23/10/2019

1. The present contempt petition has been filed alleging non compliance of the order dated 05.09.2019 passed in WPS 7086/2019.
2. The writ petition was filed challenging the order of transfer dated 22.08.2019 whereby the petitioner has been transferred from the office of Deputy Director, Raigarh to the office of Deputy Director, Baloda Bazar, Bhatapara.
3. The ground of challenge was that the order of transfer dated 22.08.2019 reflected the transfer to have been made on own request whereas the contention of the petitioner was that he has never made any request. This Court disposed of the writ petition subject to verification of the fact whether the petitioner has made any request or not. Meanwhile an interim protection was also granted to the petitioner. The contempt petition now has been filed alleging non compliance of the said order. Along with the order the petitioner himself filed a document dated 23.08.2019 Annexure

C-5 whereby the order dated 22.08.2019 has been modified to the extent that wherever it has been reflected as own request, it would be read as on administrative ground. Contention of the petitioner is that this document is antedated document and petitioner had made representation on 11.09.2019. Meanwhile, concerned department i.e. the office of Deputy Director itself on 06.09.2019 and again on 11.09.2019 had sought for instructions from the office of the Director and also marked a copy to the Secretary concerned so far as interim order granted by this Court is concerned. According to the petitioner since Deputy Director had sent a letter on 07.09.2019 there would have been no occasion for the Deputy Director for issuance of such a letter if the order dated 23.08.2019 was in existence by then or if it would have been served upon the department or the petitioner by that time. Thus it has to be presumed to be an order passed antedated.

4. This contention of the petitioner that the order dated 23.08.2019 is antedated order is difficult to be accepted for the reason that many a times it happens that transfer order reflects that it has been done on own request whereas it was made on administrative exigency. Realising the error at times the department passes a corrigendum or amendment orders rectifying their mistakes. It can be a case where rectified or modified order was not served upon the petitioner or to the concerned department at the local level. That by itself is not a strong case for drawing an inference that the order is an antedated order.
5. Given the said facts, this Court does not find any contempt so made by the respondents. Even otherwise, the order passed by this Court on 05.09.2019 was only subject to verification of the facts. If it is already stood modified, there was nothing further that remained for the department to comply. Things would have been different if the order dated 23.08.2019 would not have been in existence.

6. With the aforesaid observations, the contempt petition fails and stands rejected.

Sd/-
(P. Sam Koshy)
Judge

Rohit