

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 803 of 2018**

{Arising out of Order dated 09.10.2018 passed in Writ Petition (S) No. 6720 of 2018 by the learned Single Judge}

Donger Singh Thakur son of Shri Nohar Singh Thakur, aged about 60 years, Occupation Service, Presently posted as Senior Cooperative Inspector, Office of Joint Registrar, Cooperative Society, Durg.

---- Appellant

Versus

1. State of Chhattisgarh, Through the Secretary, Ministry of Cooperative Secretariat, Mahanadi Bhawan, Naya Raipur, District Raipur.
2. The Registrar, Cooperative Societies, Indravati Bhawan, Atal Nagar, Raipur.

---- Respondents

For Appellant	:	Shri B.P.Sharma and Ms. Trishna Das, Advocates.
For Respondents/State	:	Shri Siddharth Dubey, Deputy Government Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per Ajay Kumar Tripathi, Chief Justice

13/03/2019

1. Heard learned counsel for the Appellant and the Respondents.
2. The appeal arises out of order dated 09.10.2018 passed by the learned Single Judge who dismissed the writ application refusing to interfere with the order of transfer passed against the present Appellant on the basis of a complaint filed before the Hon'ble Chief Minister by certain residents of the area.
3. The Appellant was working as a Senior Cooperative Inspector at Durg. Vide order dated 29.09.2018, a copy of which is Annexure P/1 to the writ application, he was transferred to the office of Deputy Registrar, Cooperative Societies, Surajpur. The Appellant chose to assail the said order under the facts and circumstances which has emerged from the

pleadings as well as the evidence brought on record in the preliminary objection of the State filed before this Court as also some evidence brought before us in this appeal in the rejoinder.

4. Argument of the Appellant was that the order of transfer is not for administrative reason but is a punitive order passed by the authorities at the instance of certain vested interest and the direction issued from the superior authorities for compliance.
5. The learned Single Judge took a view that since transfer is an incidence of service, therefore, the Courts are not required to intervene with such decisions and he chose to rely on such principles laid down by the Hon'ble Apex Court holding that such transfer at times are done for efficiency in public administration.
6. The sequence of events leading to the order of transfer coupled with a report dated 30.08.2018 issued under the signature of the Joint Registrar, Cooperative Societies, which is available, indicate that the complaint which led to the transfer of the present Appellant was in fact a motivated complaint and the Appellant in fact had no role to play in relation to the allegation that he had been trying to help a Computer Operator namely Shri Nageshwar Shandilya who was said to be involved in various omissions and commissions.
7. The background under which the order of transfer has come to be passed does support the contentions of the Petitioner/Appellant that there was more to the decision making than what meets the eyes, which led to issuance of the order of transfer. The sequence of events are now more or less complete by the documents available and therefore, it cannot be treated to be a case of routine transfer for administrative exigencies. The origin was in the complaint filed by certain vested interest which culminated into the decision of transfer.

8. In the given facts, therefore, and keeping in mind that even within the Department, the allegations made against the Appellant was not found to be correct as such, the order of transfer ought to be interfered if for nothing else the interest of fair and good administration as also for the reason that no Government servant should feel that he has been victimized for a wrong reason.
9. The writ appeal stands allowed. The order of the learned Single Judge dated 09.10.2018 is set aside because the entirety of the sequence has not been taken note of by the learned Single Judge which culminated into issuance of the order of transfer.
10. Because of the above, even the order of transfer dated 29.09.2018 stands quashed. Since an order of *status quo* was passed and the Appellant has continued to be in the place of posting from where he was transferred, he will not be disturbed unless the Government decides to take a decision actually for administrative reasons.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE