

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 10544 of 2019

- Smt. Pushpa Kujur @ Kiran Kujur W/o Alexender Kujur, Aged About 47 Years R/o Sagardeep Enclave, Mig- A-42, Ameri Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Women And Child Welfare Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, New Raipur, District Raipur Chhattisgarh
2. Commissioner, Women And Child Welfare, Indrawati Bhawan Naya Raipur, Atal Nagar, District Raipur Chhattisgarh
3. Smt. Saraswati Dey, Project Officer, Integrated Child Development Project Marwahi, District Bilaspur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Anup Majumdar, Advocate
For Respondents/ State	:	Shri Soumya Rai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

12/12/2019

Heard.

1. This is second round of litigation. The petitioner was transferred from Integrated Child Development Project, Gourela, District Bilaspur to Integrated Child Development Project, Kondagaon-2. This was subject of challenge in the WPS No. 7225 of 2019 where in this Court on 12.09.2019 passed the following orders:-

1. The challenge in the present writ petition is to the impugned order Annexure P/1 dated 21.08.2019, whereby the services of the petitioner has been transferred from the Integrated Child Development Project, Gourela, District Bilaspur to Integrated Child Development Project, Kondagaon-2, District

Kondagaon.

2. The first ground of challenge is that the husband of the petitioner also is a government employee and he has been posted at the same place, where the petitioner is working and the petitioner had come to the present place of posting recently in the year 2017 and both of them have not completed even two years of tenure at their respective present place and before that the impugned order has been passed transferring the petitioner to Kondagaon-2.

3. The other ground of petitioner is that the brother of the petitioner was the Superintendent of Police at District Kondagaon and was actively involved in the Anti-Naxal Operation and therefore if the petitioner at this juncture is transferred at that place, there would always be a threat to the life of the petitioner and her entire family.

4. Given the said facts, let the petitioner make a detailed representation to the respondents within a period of 10 days from the date of receipt of the copy of this order and the respondents in turn shall decide the same within a further period of 45 days from the date of receipt of the representation.

5. Meanwhile, the effect and operation of the impugned order shall remain stayed, so far as the petitioner is concerned.

6. With the aforesaid observations, the present writ petition stands disposed off.

2. It is contended that the representation having been filed, the same is decided in the mechanical manner. It is further contended that petitioner's husband is working at Takhatpur, Bilaspur and normally husband and wife are to be placed at same place according to the transfer policy and apart from that the transfer of the petitioner to Kondagaon which is core scheduled area would create difficulty to the security of the family as one of the family member of the petitioner namely Shri Arvind Kujur died in the anti-naxal operation while serving at Kondagaon. Therefore, under the circumstance and the fact the transfer may be cancelled.
3. Perusal of the rejection order of the representation dated 11.11.2019 would show that the representation has been only rejected on the ground that

there is no breach of transfer policy of 2019. This court cannot ignore the document which shows that one family member of the petitioner while serving at Kondagaon has died, therefore, the life threat presumption and fear can not be ignored in case family member of the petitioner when again is transferred to Kondagaon. Taking into such fact, apart from the transfer policy, other ground namely the security threat which is raised in the representation followed and fortified by death of one of the family member of the petitioner looms into view. In a result, the order dated 11.11.2019 is set aside. Consequently, the matter is remitted back to the Secretary, Women and Child Development to reconsider the representation of the petitioner qua the ground raised there in and it may be decided within a further period of 60 days from the date of receipt of a copy of this order. Till then the transfer of the petitioner shall not be given effect to.

4. With the aforesaid observation, the petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Jyoti