

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 10744 of 2019**

- Pravin Mishra S/o Late Ramlakhan Mishra Aged About 44 Years R/o New Sarkanda, Jabdapara, Bilaspur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary Department Of School Education , Mahanadi Bhawan , Mantralaya , Post And Police Station Mandir Hasaud, Raipur Chhattisgarh
2. Director Public Instructions Directorate Of Public Instructions , Indrawati Bhawan , Atal Nagar, Raipur Chhattisgarh
3. District Education Officer District Bilaspur Chhattisgarh
4. Smt. Vinita Sinha Lecturer (L.B.) Laxmi Niwas, Sarkanda, Bilaspur Chhattisgarh

---- Respondents

For Petitioner : Shri Varun Sharma, Advocate

For Respondents/State : Shri Soumya Rai, PL

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****19/12/2019**

1. The grievance of the petitioner is that initially the respondent No.4 was transferred from Government Higher Secondary School Ghutku, Bilaspur to Government Girls Higher Secondary School, Sarkanda, District Bilaspur, on her own request. It is stated that the petitioner however was not transferred and since the petitioner was already holding the post in Government Girls Higher Secondary School, Sarkanda and is a senior to respondent No.4, as such a clarification was sought for by the District Education Officer wherein it was stated that post is not vacant in the school wherein the respondent No.4 was

transferred as the petitioner was working. Subsequently, by this order dated 01.10.2019 Annexure P-1 the petitioner has been transferred from the Government Girls Higher Secondary School, Sarkanda, Block Bilha, District Bilaspur to Government Higher Secondary School Ghutku, Block Takhatpur, District Bilaspur, on the administrative ground.

2. It is contended that in order to accommodate the respondent No.4, who is a junior to the petitioner, the said transfer has been effected. It is further submitted that according to the clause 3.1 of the transfer policy the transfer after the ban period can only be made with the co-ordination of the department. The RTI information sought by the petitioner would show that no such co-ordination or recommendation was sought by the department to transfer the petitioner. Consequently, the petitioner cannot be transferred as it would be against the transfer policy itself.
3. Perused the documents. Perusal of documents would show that initially the petitioner was not transferred and respondent No.4 was transferred from Government Higher Secondary School Ghutku, Bilaspur to Government Girls Higher Secondary School, Sarkanda, District Bilaspur by order dated 21.08.2019. The post having not been vacant as the petitioner was working there, a clarification was sought by the department vide Annexure P-4 that the post is not vacant. Subsequently, the present transfer order has been passed whereby the petitioner has been transferred from the Government Girls Higher Secondary School, Sarkanda, Block Bilha, District Bilaspur to Government Higher Secondary School Ghutku, Block Takhatpur, District Bilaspur.
4. The transfer policy as has been relied shows that in between the period from 12.07.2019 to 14.08.2019 the transfer can be made under certain

recommendations and the RTI information would show that no such recommendation was made by the department to transfer the petitioner. In view of this the petitioner is given liberty to make afresh detailed representation before the Grievance Redressal Committee of the State within a period of 3 weeks from today and on such representation being filed, the committee shall decide the same within a period of 45 days from the date of receipt of the representation. Till then the transfer order dated 01.10.2019 in respect of the petitioner shall not be given effect to.

5. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu