

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2170 of 2020

- P.S. Som S/o Late Shri Chaman Singh Som Aged About 59 Years R/o Jail Road, Ambikapur, District Surguja, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through- The Secretary, Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya, Naya Raipur, District- Raipur, Chhattisgarh
2. State Of Chhattisgarh Through- The Under Secretary, Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh
3. Municipal Corporation, Ambikapur Through Commissioner, Municipal Corporation, Ambikapur, District Surguja, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Vivek Kumar Agrawal, Advocate
For State	:	Mr. Sudeep Agrawal, Dy. A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order

16.06.2020

1. Heard
2. The challenge in the present writ petition is to the orders dated 15.01.2020 (Annexure P/1) and 07.04.2020 (Annexure P/2). It is contended that the petitioner has been transferred from Nagar Panchayat, Palari to Municipal Corporation Ambikapur. It is stated that one Hardayal Ratre whose name was found at Sr. No. 3 is much junior to the petitioner has been transferred from Municipal Council Akaltara to Municipal Corporation Chirmiri which was subsequently

amended by order dated 07.04.2020 (Annexure P/2) wherein Hardayal Ratre has been placed as In-Charge Chief Municipal Officer, Municipal Council Manendragarh which comes under the Surguja Division.

3. Learned counsel for the petitioner would refer to the circular of the State dated 07.02.2013 and 14.07.2014 and would submit that the State Government has categorically laid down that when the charge is given in a Office, the junior cannot supersede the seniors, therefore the transfer of the petitioner is bad in law.
4. Perusal of the order dated 15.01.2020 (Annexure P/1), which is under challenge, would show that the petitioner has been transferred from Nagar Palika Parishad Palari to Revenue Officer Nagar Nigam Ambikapur and the second challenge which is made is the order dated 07.04.2020 (Annexure P/2) whereby it is stated that Hardayal Ratre has been transferred to Nagar Palika Parishad Manendragarh as CMO. Though the challenge for the quashment of the order has been sought for, and the cause title of the petition do not show that Hardayal Ratre has been arrayed as a party, therefore, simply by the submission of the petitioner, it cannot be inferred that Ambikapur and Manendragarh would be considered one even if it is in the same Division. Apart from it, Municipal Corporation Ambikapur and Municipal Council Manendragarh *prima facie* appears to be two distinct entity. Since Hardayal Ratre has not been made a party in this petition, therefore, the quashment of the order dated 07/04/2020 (Annexure P/2) cannot be ordered in his absence and the petitioner also, is not able to establish the fact that wherein he has been

transferred i.e. Municipal Corporation Ambikapur as Revenue Officer, other juniors are in-charge over and above the petitioner and under whom he has to work. There is no pleading exists to those facts. In absence of the facts and proper pleading, inference cannot be drawn that Municipal Corporation Chirimiri and Municipal Corporation Ambikapur would be within one establishment irrespective of the fact of one Division. Therefore, I do not find any merit in this petition to entertain the same.

5. Accordingly, the writ petition stands dismissed.

Sd/-

(Goutam Bhaduri)
Judge

Vishakha