

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WP(S) No. 4425 of 2020**

1. Vaishali Patel, W/o Vijay Kumar Patel, Aged About 33 Years  
Profession - Patwari, P.H.No. 19, Head Office Village - Devri, Sub  
Tahsil - Seepat, Tehsil - Masturi, District Bilaspur (C.G.) Permanent  
Address C/o Shri Permeshwar Patel, Village Khaira (Jairamnagar),  
Tahsil And Police Station Masturi, District Bilaspur Chhattisgarh.

**---- Petitioner****Versus**

1. State Of Chhattisgarh, Through The Secretary, Department Of  
Revenue And Disaster Management, Mahanadi Bhavan, Mantralaya,  
Police Station And Post - Rakhi, Nawa Raipur, Atal Nagar, District -  
Raipur Chhattisgarh
2. Collector District Bilaspur Chhattisgarh
3. Sub Divisional Officer (Revenue), Masturi, District Bilaspur  
Chhattisgarh.
4. Tehsildar, Tehsil - Masturi, District Bilaspur Chhattisgarh.
5. Naib Tahsildar, Sub Tahsil Seepat, Tahsil Masturi, District Bilaspur  
Chhattisgarh.
6. Monika Verma Mishra, Deputy Collector, Working On The Post Of Sub  
Divisional Officer (R), Masturi, District Bilaspur Chhattisgarh.
7. Manoj Khande, Working Tehsildar, Tehsil - Masturi, District Bilaspur  
Chhattisgarh.
8. Sandhya Namdeo, Working Naib Tahsildar, Sub - Tehsil - Seepat,  
District Bilaspur Chhattisgarh.
9. Tulsi Rathore, Tehsildar, Working Additional Tehsildar, Sub - Tehsil -  
Seepat, District Bilaspur Chhattisgarh.
10. Chandramani Pandey, Kanoongo, Tahsil - Masturi, District  
Bilaspur Chhattisgarh.

**---- Respondents**


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| For Petitioner | : Shri Santosh Kumar Pandey,, Advocate. |
| For State      | : Shri Rahul Jha, Govt. Advocate.       |

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**Hon'ble Shri Justice P. Sam Koshy****Order on Board****26.11.2020**

1. Counsel for the petitioner makes an oral request for removing the  
default during the course of day itself

2. The oral request stands allowed. Let necessary amendment be carried out by the petitioner during the course of the day itself.
3. The challenge in the present writ petition is to the order Annexure P/1 dated 04.11.2019 and the two suspension orders dated 09.12.2019 and 27.07.2020. In addition, the challenge also is to the departmental enquiry initiated against the petitioner vide order Annexure P-30 dated 24.08.2020. The whole issue involved in the present writ petition arises out of an original order of transfer dated 04.11.2019 whereby the petitioner who was working as a Patwari at PH No. 19 Devri and now he has been posted to another patwari halka No. 13 Khamharia. The petitioner subsequently is said to have been placed under suspension on 09.12.2019 for non-compliance of the said order of transfer.
4. Meanwhile, the petitioner also challenged the order of transfer dated 04.12.2019 vide WP(S) No. 10915/2019. The said writ petition came up for hearing on 07.01.2020, and on which date the writ petition was disposed of at the request of the counsel for the petitioner himself with a request for a direction to the respondents be issued to decide the representation that the petitioner has made. Accordingly, the said writ petition was disposed of on 07.01.2020. The representation which the petitioner had submitted subsequently stood decided on 25.01.2020.
5. Meanwhile, the petitioner is said to have approached the Sub Divisional Officer stating that since after 09.12.2019, no charge-sheet has been issued within a period of 45 days, therefore the order of suspension stands automatically revoked and she be permitted to

resume her duty accordingly at the original place of posting i.e. PH No. 19 Devri the place where she was posted prior to issuance of the order of transfer dated 04.11.019. The petitioner again approached the authorities on 03.02.2020 for granting the charge at Patwari Halka No. 19. Subsequently, the Additional Collector is said to have issued a show-cause notice to the petitioner on 18.02.2020 for non-compliance of the order dated 04.11.2019 and the petitioner again submitted a reply to the same on 24.02.2020. Subsequently, the SDO again issued an order on 19.03.2020 asking the petitioner to resume her duty at the new place of posting i.e. PH No. 13 Khamharia on the suspension being revoked. The petitioner again made a representation to the Sub Division Officer questioning the order of transfer itself vide representation dated 20.04.2020. Thereafter, again a fresh show-cause notice was issued to the petitioner on 04.06.2020 for yet not complying with the order of transfer and resuming her duty at the new place of posting i.e. PH No. 13 Khamharia and the petitioner again gave a reply to the said show cause notice on 08.06.2020 and further made another additional reply to the show-cause notice on 12.06.2020.

6. Considering the fact that the petitioner has not resumed her duty inspite of there being a specific order by the Sub Divisional Officer, the authorities vide Annexure P/21 dated 24.06.2020 ordered for stoppage of wages/salary of the petitioner. Later on, another final notice was issued to the petitioner on 21.07.2020 asking the petitioner to report for duty at PH No. 13 where the petitioner has been ordered to be posted way back on 04.11.2019.

7. That the petitioner till date has not reported for duty at PH No. 13 where the petitioner has been ordered to be posted way back on 04.11.2019. In spite of service of repeated notices, the petitioner still did not join her duty and kept on making representations to the authorities. Yet when the petitioner did not resume/assume her duty at the place of posting at PH 13, the SDO vide order dated 27.07.2020 the petitioner was placed under suspension yet again. Subsequently, a charge-sheet for non-compliance of the order was also issued on 05.08.2020 for conducting departmental enquiry. To the said charge-sheet, the petitioner submitted a detailed reply on 17.08.2020 vide Annexure P/28 in which the petitioner has sought for certain informations/documents for giving an effective reply to the charge-sheet, for which also the respondents issued a letter to the petitioner vide memo dated 20.08.2020 intimating that all the relevant documents have been duly issued to the petitioner, therefore the representation which the petitioner had made on 17.08.2020 has been rejected.
8. Later on, vide order dated 24.08.2020, the Enquiry Officer as well as the Presenting Officer have been appointed so far as the departmental enquiry is concerned. Meanwhile, the petitioner had also preferred a Contempt Petition against the respondents i.e., the Cont. Petition No. 615/2020, which got dismissed on 31.08.2020. The documents enclosed along with the writ petition would further reveal that the petitioner has also been issued with notices for his appearance before the Enquiry Officer.

9. It is at this stage that the present writ petition has been filed by the petitioner on 29.09.2020. This Court at the outset would hold that present is not a stage where petitioner would be permitted to question the Transfer order and the suspension order now when the departmental enquiry has already been contemplated and the Enquiry Officer and the Presenting Officer have been appointed and the enquiry proceedings have also been initiated by the Inquiry Officer.
10. Another fact which needs consideration is that the petitioner himself at the first instance had questioned the transfer order in the writ petition i.e. WP(S) 10915/2019 which was disposed of on 07.01.2020. The said order of the High Court dated 07.01.2020 has subsequently been complied with by the authorities vide its order dated 25.01.2020. It is pertinent to mention that the said order dt.25-01-2020 has not been challenged.
11. The facts which needs to be considered is the scope of interference in a transfer matter if at all, if it is a transfer matter and the distance between the two places. Further what is reflected from the order is that both the place of posting is under the same SDO and it is within the same Sub Division, and hence it is only a change of place of posting of the petitioner within the same sub division under the same SDO. The order of so called change of posting would not in any manner give rise to any inconvenience to the petitioner or on his service career or to his service conditions.
12. Moreover, right from 04.11.2019 till date the petitioner has not shown any interest in joining at the place of posting i.e. PH No. 13,

though more than a year has passed. For this more than one year of period, the petitioner has not discharged her duties which are otherwise supposed to be discharged by a Patwari. To add with it, the petitioner now has again appeared before the authorities and has submitted his detailed response to the charge-sheet that has been issued and is contesting the departmental enquiry itself on its merits, where again the petitioner would be raising the same grounds which she has raised in the present petition.

13. Counsel for the petitioner drew the attention of an order passed by a District Collector, District Balod whereby an order of posting made by another SDO has been cancelled. Secondly, Counsel for the petitioner also relied upon an order passed by the Division Bench of this Court in WA No. 811/2018 in the case of Khusboo Tiwari v. State of Chhattisgarh.

14. Both these grounds raised by the petitioner again would not be a ground for interfering with the orders in this case for the reason that substantial time has lapsed from the date the original order of transfer was issued and considerable period of time, the petitioner in-spite of repeated reminders has not assumed her duties at the new place of posting

15. Considering all the aforesaid facts and circumstances of the case, more particularly the fact that there was no interim protection in any manner in favour of the petitioner during all this period, this Court does not find any strong case made out by the petitioner to exercise the power of judicial review at this stage. Leaving open for the petitioner to

approach the Court in case if the departmental enquiry proceedings goes against the petitioner.

16. The writ petition therefore being devoid of merit deserves to be and is accordingly dismissed.

**Sd/-  
(P. Sam Koshy)  
Judge**

Jyotijha