

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 497 of 2019**

(Arising out of order dated 01/10/2019 passed by learned Single Judge in Writ Petition (S) No.8116 of 2019)

Smt. Marina Topno W/o Shri Prabhu Dhan Topno Aged About 44 Years
Lecturer (LB) Presently Posted On The Post Of Hostel Superintendent
Kasturba Gandhi Balika Awasi Vidhyalaya Sonhat Block And Police
Station Sonhat, District Korea Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Atal Nagar, Raipur, District Raipur Chhattisgarh.
2. Mission Director Rajiv Gandhi Shiksha Mission, Raipur, District Raipur Chhattisgarh.
3. The Director Public Instruction Directorate Indravati Bhawan, Naya Raipur, District Raipur Chhattisgarh.
4. The Collector And District Mission Director Rajiv Gandhi Shiksha Mission, District Korea, Baikunthpur Chhattisgarh.
5. District Mission Co-Ordinator Rajiv Gandhi Shiksha Mission, District Korea Baikunthpur Chhattisgarh.
6. Block Education Officer Block Sonhat District Korea Chhattisgarh.
7. Smt. Saloni Bakhla Teacher (L.B.) Kasturba Gandhi Balika Awasi Vidhyalaya Sonhat Block And Police Station Sonhat, District Korea Chhattisgarh.

---- Respondents

For Appellant	: Mr. Anil Singh Rajput, Advocate
For Respondents/State	: Mr. Vikram Sharma, Deputy Govt. Advocate
For Respondents No. 2, 4, 5:	Mr. Ashutosh Singh Kachhawaha, Advocate
For Respondent No.7	: Ms. Shruti Singh Parmar, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Parth Prateem Sahu, Judge

23/01/2020

1. Challenge in this writ appeal is to the order dated 01/10/2019 passed by learned Single Judge in Writ Petition (S) No.8116 of 2019 whereby the challenge made by appellant to her transfer was declined to interfere with.
2. The relevant facts of the case are that, the appellant was working as Hostel Superintendent at Kasturba Gandhi Balika Awasiya Vidhyalaya, Sonhat and has been transferred to Government High School, Sawarawan by respondent No.4, who is Collector-cum-District Mission Director, Rajiv Gandhi Shiksha Mission District Korea, Baikunthpur. The order of transfer was challenged by the appellant by filing writ petition before this Court, which came to be dismissed by learned Single Judge.
3. Mr. Anil Singh Rajput, learned counsel appearing for the appellant submits that appellant was working as Hostel Superintendent and for that post as per guidelines issued by respondent No.2, only the Lecturers are entitled to hold the post of Hostel Superintendent. He further submits that respondent No.7 who has been appointed in her place to work as Hostel Superintendent is not having requisite qualification to take over the charge as per the guidelines because she is only a Teacher (Panchayat) and not a Lecturer (Panchayat). He also submits that the order of transfer is only to accommodate respondent No.7 on the post of Hostel Superintendent at Kasturba Gandhi Balika Awasiya Vidhyalaya, Sonhat.

4. Per contra, Mr. Ashutosh Singh Kachhawaha, learned counsel appearing for respondents No.2, 4 and 5 submits that the appellant was initially appointed on the post of Shiksha Karmi Grade-1 and not as 'Hostel Superintendent'. He further submits that as she has been completed more than seven years on the post of Hostel Superintendent at Kasturba Gandhi Balika Awasiya Vidhyalaya, Sonhat, some complaints are also against her, therefore, in administrative exigency, she has been transferred to the Government High School, Sawarawan for providing education to the students. He also submits that respondent No.7 has been given temporary charge of Hostel Superintendent and they are effecting the direction issued by learned Single Judge to appoint qualified person to hold the post of Hostel Superintendent. He further submits that proceedings have been initiated but looking to the Panchayat election, that could not be concluded and the competent person will be appointed immediately after completion of the Panchayat election. He also submits that respondent No.7 due to her medical ailment is not continuing with the charge of Hostel Superintendent, therefore, by way of alternative arrangement in the administrative exigency, some other Teacher is appointed to hold the charge of Hostel Superintendent only for breathing period so as to make permanent arrangement by appointing a qualified person on the post of Hostel Superintendent. To support contention of complaint report dated 06/09/2019 and 11/09/2019 is placed on record as Annexures R-2-7 and R-2-8.
5. We have heard learned counsel appearing for the respective parties and also perused the record.

6. It is not in dispute that the appellant has been appointed as a 'Shiksha Karmi Grade-1, (Lecturer)' and not as 'Hostel Superintendent', therefore, she could not claim that she cannot be transferred to the School and she can only be posted as Hostel Superintendent. Further that, the appellant is holding a transferable post and she cannot claim as a matter of right to continue to be posted at a particular place of posting of her own choice.
7. So far as the ground raised by learned counsel for appellant that the respondent No.7 is not qualified to hold the post is concerned, learned Single Judge has already considered the issue and issued direction to this issue. Even learned counsel for respondents No.2, 4 and 5 have submitted that the competent person will be appointed soon after the Panchayat election.
8. Looking to the facts and circumstances of the case, as the respondent No.2 has already taken an initiative to appoint qualified person to hold the post of Hostel Superintendent and there is no right of appellant to hold the post of Hostel Superintendent, we do not find any infirmity in the order passed by the learned Single Judge.
9. The writ appeal being devoid of merit, is liable to be and is hereby dismissed.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge