

HIGH COURT OF CHHATTISGARH AT BILASPUR**W.P.(S) No. 10318 of 2019**

Smt. Poonam Kurre, W/o. Dinesh Kosle, Aged About 37 Years, Presently Working As Project Officer, Office Of The Program Officer, Woman And Child Development Department Bilaspur, R/o. Near Pallav Bhawan, Patrakar Colony, District Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. State Govt. Of Chhattisgarh, Through The Secretary, Department Of Women And Child Development, Secretariat, Mahanadi Bhawan, Atal Nagar, District Raipur, Chhattisgarh.
2. The Director, Directorate Indrawati Bhawan, Atal Nagar, Raipur, District- Raipur, Chhattisgarh.
3. The Collector Bilaspur, District Bilaspur, Chhattisgarh.
4. The Program Officer, Women And Child Development Department, District- Bilaspur, Chhattisgarh.
5. Shri Atul Dandekar, Working As Project Officer, ICDS Bilha, District- Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner : Mr. Sameer Behar, Advocate

For State : Mr. Neeraj Pradhan, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****31.01.2020**

1. Learned counsel for the petitioner submits that by the transfer order dated 21.08.2019 passed by the Additional Secretary, State of Chhattisgarh, the petitioner was transferred from Integrated Child Development Project Mungeli to Integrated Child Development Project Bilha. At the same time, the respondent No.5, Atul Dandekar, was transferred from Integrated Child Development Project Bilha to Integrated Child Development Project Geedam 2 Barsur, District Dantewada. Against such transfer, the respondent No.5, Atul Dandekar, preferred a writ petition before this Court and the coordinate Bench of this Court in WPS No.7546 of 2019 vide order dated 19.09.2019 has passed the following orders :

“1. The challenge in the present writ petition is to the order of transfer dated 21.08.2019 whereby the petitioner has been transferred from Integrated Child Development Project, Bilha, District Bilaspur to Integrated Child Development Project, Geedam-2, Barsur, District Dantewada.

2. The ground of challenge is that the son of the petitioner is studying in class 12th standard and at this juncture if the petitioner is transferred, the crucial stage of his study would get adversely affected particularly when he is appearing in 12th Board Examination. Annexure P/10 is the document to show the fact that the son of the petitioner is studying in Class 12th. The other ground raised by the petitioner is that he had worked in scheduled /naxalite affected areas for more than 11 years and vide the impugned order he has again been transferred to a core scheduled area.

3. Considering the fact that the son of the petitioner is pursuing 12th Class Board Examination and that at this mid session, transfer of the petitioner may have an adverse impact on the educational part of his son, this Court is of the opinion that let the petitioner make a detailed representation within a period of 15 days from today to the respondents taking all grounds, who in turn shall consider retaining of the petitioner till the present academic session is over and thereafter if required, the petitioner be transferred on administrative exigency. Let this exercise be completed within a period of 45 days from the date of receipt of the representation.

4. Till the representation of the petitioner is decided, the effect and operation of the impugned order, so far as the petitioner is concerned shall remain stayed.

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

2. It is contended that the said order was passed on 19.09.2019 and before that on 05.09.2019 by Annexure P-3, the petitioner joined the place of transfer at Bilha, which was accepted by Annexure P-4 dated 09.09.2019, whereby the respondent No.5 was relieved and the petitioner was given the charge at Bilha. It is stated thereafter by the order dated 01.10.2019 (Annexure P-6), the District Program Officer canceled the said taking over of the charge. It is contended that the petitioner having taken the charge and the transfer order having been executed, which was under the order of the Secretary, this cannot be nullified at the behest of the District Program Officer. Therefore, the order is bad in law.

3. State counsel was directed to seek instructions on two occasions and it is contended on behalf of the State that presently it is decided that the respondent No.5, Atul Dandekar, shall be kept at Integrated Child Development Project Bilha till the academic session of this year. The same is placed on record, which is an order dated 29.01.2020.
4. Perusal of the order dated 29.01.2020 would show that the respondent No.5 is allowed to be stayed in the Station at Bilha till the end of the academic session. This appears to be reasonable. Perusal of the record shows that the petitioner having been joined by order dated 09.09.2019 and was given the charge, which was pursuant to the execution of the transfer order, the petitioner has complied with the order; however, in order to put an end to the dispute, it is observed that the respondent No.5 shall positively relieved after the academic session of March-April, 2020 as few days are left. Consequently, in order to strike balance, at present, this Court is not inclined to refer to the legality of the order dated 01.10.2019 (Annexure P-6) passed by the District Program Officer.
5. It is observed that the petitioner shall be paid forthwith the entire salary of the arrears which is not paid till date within a period of 15 days. The petitioner shall further immediately posted at the place at Bilha according to the order of transfer as she had taken charge earlier.
6. With the aforesaid observation, writ petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge