

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 1 of 2020***{Arising out of order dated 29.11.2019 passed by the learned Single Judge in
Writ Petition (S) No. 9517 of 2019}*

- Khadanand Patanwar S/o Late Rampyare Patanwar, Aged About 56 Years R/o Jorapara, Sarkanda, Bilaspur District - Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through Secretary, Department of Revenue And Disaster Management, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh.
2. Commissioner, Land Records, Indrawati Bhavan, Atal Nagar, Raipur, District - Raipur Chhattisgarh.
3. Commissioner, Bilaspur Division, District - Bilaspur Chhattisgarh.
4. Collector, District - Bilaspur Chhattisgarh.

---- Respondents

For Appellant	:	Shri Santosh Kumar Pandey, Advocate.
For Respondents	:	Shri Ghanshyam Patel, Government Advocate.

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

Judgment on Board**Per Parth Prateem Sahu, Judge****08.01.2020**

1. Challenge in this appeal is to the order dated 29.11.2019 passed in Writ Petition (S) No. 9517 of 2019, whereby the petition filed by the Appellant challenging his amended transfer order from Semra, Tehsil Pendra Road, District Bilaspur to Khongsara, Tehsil Kota, District Bilaspur has been dismissed.

2. The case of the Appellant is that he is holding the post of Patwari and was posted at Chantidih, Bilaspur. He was transferred to village Semra, Tahsil Pendra Road District-Bilaspur vide order dated 18.10.2019. Before execution of the order of transfer dated 18.10.2019 an amended order was issued on 21.10.2019 showing that the Appellant was transferred to Patwari Circle No. 2 Khongsora Tahsil-Kota, District-Bilaspur from Semra, Tahsil-Pendra Road. The writ petition filed by Appellant challenging his transfer came to be dismissed.
3. Learned counsel for the Appellant submits that the order of transfer was issued by an authority not competent/having jurisdiction to issue transfer order of Patwaries. He also submitted that there was no administrative exigency to transfer the Appellant from Patwari Circle No. 33 Chantidih, Tahsil & District-Bilaspur.
4. On the other hand learned counsel for State submits that the jurisdiction/competency of the authority was not raised by the Appellant in his writ petition but for the other general grounds. He further contended that one Ashish Toppo has already joined by order dated 23.10.2019 and charge in absence of the Appellant was also handed over on 11.11.2019.
5. We have heard learned counsel for the parties and perused the record.
6. Perusal of the writ petition would show that the Appellant has not raised any ground in the writ petition challenging the jurisdiction/authority of additional collector in issuing order of transfer of Patwari. Being that be the position the Appellant cannot be permitted to raise this ground for the first time in appeal.
7. Even otherwise Section 11 of Chattisgarh Land Revenue Code specifies Revenue Officers in which it is mentioned as 'Collector' (including Additional Collector). Section 11 of Chhattisgarh Land Revenue Code, 1959 is extracted below:

“11. Revenue Officers:- There shall be the following classes of the Revenue Officers, namely :-

Commissioner (including Additional Commissioners);
 Settlement Commissioner (including Additional Settlement Commissioners);
 Collectors (including Additional Collectors);
 Settlement Officers;
 Sub-Divisional Officers;
 Assistant Collectors;
 Joint Collectors (including Deputy Collectors);
 Deputy Settlement Officers;
 Assistant Settlement Officers;
 Tahsildars (including Additional Tahsildars);
 Superintendents of Land Records;
 Naib Tahsildars;
 Assistant Superintendents of Land Records.”

8. Additional Collector is included with the Collector where as other Revenue Officers including Joint Collector has been shown separately. For the purpose of this Code Additional Collector can exercise all the powers of the Collector unless excluded. In view of the above, the ground of jurisdiction raised by the Appellant is not sustainable and is here by repelled.
9. For the foregoing discussion, we do not find any merit in the appeal which is liable to be and is hereby dismissed.
10. However, looking to the fact that the Appellant has made application before the Collector for his transfer on own request which is pending consideration, it is directed that the dismissal of this appeal will not be a hurdle to decide the application/representation of the Appellant pending or to be submitted by the Appellant before the competent authority at its earliest.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge