

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2013 of 2021**

Vandana Xaxa D/o Late Bishram Xaxa, Aged About 30 Years, Working As Data Entry Operator (Election Section) At Tahsil Korba, Office Of Collector And District Election Officer, Tehsil Office Korba, District Korba, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Law And Legislation (Election) Work Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Atal Nagar, Raipur, Chhattisgarh
2. Collector, Office Of Collector And District Magistrate Korba, District Korba, Chhattisgarh
3. Dy. District Election Officer, Office Of Collector And District Election Officer, Korba, Chhattisgarh
4. Yogesh Kumar Narange, Data Entry Operator At District Office, Korba, District Korba, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Vinod Kumar Deshmukh, Advocate
For State	:	Mr. Sudeep Verma, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****22.03.2021**

1. The challenge in the present writ petition is to the order Annexure P-1 dated 05.03.2021. Vide the impugned order the respondents have modified an order dated 16.11.2017 so far as the case of posting of the petitioner is concerned and have posted the petitioner at Tahsil Kartala

within the same district i.e. district Korba.

2. Learned counsel for the petitioner submits that the impugned order is per se bad in law for the reason that the order dated 16.11.2017 could not have been modified after more than 3 years for the simple reason that the said order already stood executed and implemented. According to the petitioner, once an order stands executed, there cannot be an amendment or modification made that too after a period of 3 years of its execution. Second ground of challenge is that the impugned order again is not one which could have been issued by the Dy. District Election Officer rather it could have been issued only by the authority who had passed the original order dated 16.11.2017.
3. State counsel, on the other hand, submits that except for the use of term “amendment” in the impugned order, the contents of the order would show that the same have been done taking into consideration the administrative exigency that has arisen and it seems that not much prejudice would be caused to the interest of the petitioner and for the said reason, the impugned order does not warrant any interference.
4. Having heard the contentions put forth on either side and on perusal of the record, undisputedly, the order dated 16.11.2017 is one which was passed by the District Collector while the petitioner was posted at Tahsil, Korba. The impugned order now is one which has been issued after more than 3 years. The further admitted factual position also would show that the order dated 16.11.2017 already stood complied with inasmuch as all the persons appointed by the said order had assumed their respective place of posting and as such the said order stands executed and fully implemented and there could not have been an amendment or modification to the said order. Moreover, the

impugned order also seems to have been passed by another Officer and not by the Officer who had issued the original order dated 16.11.2017.

5. This High Court in a series of decisions passed in the past have categorically held that once an order stands executed, there cannot be an amendment or modification of the same. Nothing precludes the respondents from issuing a fresh order on the administrative exigency but modification or amendment of an order which already stood executed that too for more than 3 years back would not be permissible.
6. In view of the aforesaid two reasons, the impugned order Annexure P-1 dated 05.03.2021 only so far as the petitioner is concerned would not be sustainable and the same to that extent stands set aside/quashed. However the right of the State/District Authorities stands reserved for taking an appropriate decision afresh on the administrative exigency in accordance with the rules.
7. With the aforesaid liberty, the writ petition stands allowed and disposed of.

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