

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4131 of 2021**

Ram Nath Sahu S/o Shri M.R. Sahu Aged About 56 Years R/o Village
Potha, Tehsil Nagri, Dhamtari, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mahanadi Bhawan, Nava Raipur, Atal Nagar, Chhattisgarh, District : Raipur, Chhattisgarh
2. Kishun Lal Mutavale, Principal Higher Secondary School, Shajapali, Chhokra, Dist. Gariyaband, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Aman Saxena, Advocate
For State	:	Mr. Ayaz Naved, GA

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

10/08/2021

1. The petitioner has today moved an application for amendment seeking for amendment to the extent of replacing the respondent no.2 by an appropriate party.
2. According to the petitioner one Mr. Kishun Lal Mutavale has been posted as Block Education Officer at the place where the petitioner is presently posted. Therefore he becomes a necessary party.
3. On due consideration, the same stands allowed.
4. Let necessary amendment be carried out during the course of the day.
5. Aggrieved by the order dated 27.07.2021 the present writ petition has been filed. Vide the impugned order the respondent no.2 the newly added respondent has been ordered to be posted Block Education Officer at

Chhura District Gariyaband. The challenge is on the ground that it is only around seven months back that the petitioner is given the charge of Block Education Officer, he has now being replaced by private respondent i.e. respondent no.2.

6. Contention of the petitioner is that the impugned order is bad in law for the reason that in the impugned order there is no place of posting provided so far as petitioner is concerned and in the absence of any posting given to the petitioner, the impugned order to that extent would not be sustainable in the eye of law. According to the petitioner since there has been a written order giving the charge of Block Education Officer, he cannot be disturbed without there being another order passed by the competent authority. Neither can there be change of posting of the petitioner without there being an order.
7. From the perusal of the records, what is reflected is that in the past when the post of Block Education Officer at Chhura, District Gariyaband fell vacant the Divisional Commissioner vide his order dated 07.12.2020 ordered the charge of Block Education Officer, Chhura to be discharged by the present petitioner. The plain perusal of the order dated 07.12.2020 also would reveal that the said order was not a substantive order of transfer or substantive posting order but was only a temporary charge being granted to the petitioner until further orders.
8. Perhaps, the impugned order now dated 27.07.2021 is substantive order of posting of respondent no.2 as Block Education Officer at Chhura, District Gariyaband.
9. Another fact which needs appreciation is that the petitioner undoubtedly is only a lecturer of the Government Higher Secondary School, Whereas the respondent no.2 is substantively a Principal of a Government Higher Secondary School and respondent no.2 is the superior officer so far as hierarchy is concerned.

10. Another fact which needs to be considered is that Annexure P-2 is an order passed by the Divisional Commissioner giving the temporary charge to the petitioner and impugned order now is one which has been issued by the competent authority under the School Education Department.
11. As regards, the impugned order not reflecting the place of posting for the petitioner is concerned, what needs to be considered is that even when the Annexure P-2 was passed granting the charge of the Block Education Officer, Chhura to the petitioner he was substantively a Lecturer at the Government Higher Secondary School, Ruwad under the Block Chhura. He has not been transferred, shifted or substantially made Block Education Officer. He continued to remain substantively Lecturer at the Government Higher Secondary School, Ruwad. By virtue of the implementation of the impugned order Annexure P-1 the moment respondent 2/3 assumes the charge of Block Education Officer, as a consequence thereafter the petitioner would stand relieved for his substantive place of posting at the Government Higher Secondary School, Ruwad under the Block Chhura. Annexure P-2 by itself cannot be construed the order of transfer or a substantive order of posting of the petitioner as Block Education Officer it was only a temporary arrangement made at the local level and the arrangement that was made vide order dated 07.12.2020 was specifically mentioned to be till further orders which in other words means, the moment the competent authority passes an appropriate order for a regular posting of the Block Education Officer, the order dated 07.12.2020 would automatically cease to come in operation and petitioner thereafter would substantially stands relieved or would be owing the post of Lecturer at the Government Higher Secondary School At Ruwad Block Chhura.
12. For the aforesaid facts and circumstances, this Court does not find any strong case made out by the petitioner calling for an interference with the impugned order. However, right of the petitioner for ventilating his

grievances if any with the respondents is left open to be dealt with on the administrative side. The petitioner would also be permitted to make additional representation if not already made in this regard

13. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit