

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.481 of 2020**

Raman Sharma S/o Late Prakash Ram Murti Sharma Aged About 32 Years R/o
Ward No. 21, Rajapara, Kanker, District- U.B. Kanker C.G., District : Kanker,
Chhattisgarh

---- Appellant**Versus**

1. State of Chhattisgarh Through Its Secretary, Public Education Department Mahanadi Bhavan, Mantralaya, New Raipur, District- Raipur, Chhattisgarh
2. Director Public Education, Mahanadi Bhavan, Mantralaya, New Raipur, District- Raipur, Chhattisgarh
3. The Collector District- Uttar Baster Kanker Chhattisgarh
4. The District Education Officer District- U.B. Kanker, Chhattisgarh
5. Secretary Urban Administration And Development Department, Naya Raipur, District- Raipur Chhattisgarh
6. Secretary School Education Department, Naya Raipur, District- Raipur, Chhattisgarh

---- Respondents

(Cause-title taken from Case Information System)

For Appellant : Mr. Parag Kotecha, Advocate

For State/Respondents : Mr. Anmol Sharma, Panel Lawyer.

Hon'ble Shri Arup Kumar Goswami, Chief Justice**Hon'ble Shri Goutam Bhaduri, Judge****Judgment on Board****Per Arup Kumar Goswami, Chief Justice****27.10.2021**

Heard Mr. Parag Kotecha, learned counsel for the appellant. Also
heard Mr. Anmol Sharma, learned counsel for the State/respondents.

2. The writ appeal is presented against an order dated 03.12.2020 passed by the learned Single Judge in Writ Petition (S) No.4647 of 2020, dismissing the writ petition.

3. Challenge in the writ petition was to an order dated 27.10.2020 passed by the Collector, District Uttar Bastar, Kanker, respondent No.3. According to us, the translated version of the order dated 27.10.2020, more or less, reads as follows :

**“Office of the Collector, District Uttar Bastar Kanker
(Chhattisgarh)**

//Order//

No./Complaint/2020/4289

Kanker, Dated 27.10.2020

In compliance of order received by the Secretary, Government of Chhattisgarh, Department of Planning, Economic and Statistics and Department of School Education, and on the basis of recommendation given in enquiry report submitted by the committee constituted for enquiring into the complaint received against Shri Raman Sharma, Lecturer, Urban Body Government Girls Higher Secondary School, Kanker, Block Kanker, he is ordered to work at Government Boys Higher Secondary School, Sarona, Block Narharpur under teaching arrangement until further order.

This order will come into force with immediate effect.

Sd/-
Collector
District- Uttar Bastar Kanker”

4. The State/respondents has filed a return in the appeal.

5. It is not in dispute that when the order was passed by the Collector on 27.10.2020, the appellant was an employee under the Local Body. On 31.10.2020, all teachers who had completed two years as an employee of the Local Body, had been brought under the jurisdiction of the School Education Department. The appellant having completed two years as an employee of the Local Body, his service was also placed under the Department of School Education.

6. It is submitted that Director of Public Instructions is the competent authority to transfer the teachers of the School Education Department.

7. It is to be noted that the Collector having passed the order dated 27.10.2020, had sent a letter to the Director for approval of the action taken by him and the same was duly approved on 09.03.2021.

8. Though, the Collector did not have any authority or jurisdiction to pass the order on 27.10.2020, it will be appropriate to take note of certain events, which prompted the Collector to pass the order, which came to be challenged in the writ petition.

9. On a complaint being lodged by a lady, an FIR No.185 of 2018 in the Police Station Aarang, District - Raipur was registered against the appellant under Sections 376(n) and 417 of the Indian Penal Code, 1860. Charge-sheet was filed in the said case and the appellant is facing trial. At the time when the aforesaid FIR was filed, the appellant was working as Lecturer in Aarang, Raipur. He was then temporarily placed to discharge his duty in Urban Body Government Girls Higher Secondary School, Kanker by an order dated 11.09.2018. Subsequently, a complaint was lodged by the prosecutrix, at the instance of whom FIR was lodged, before the authorities making allegations

against the appellant and requesting the authorities not to allow the appellant to serve in any girls school till the final decision was arrived at in the criminal proceeding. A Committee comprising of five members was constituted on 02.07.2020 for verifying the correctness of the allegations. After recording statements of various persons including the appellant, the Committee opined that it would be appropriate to recommend the transfer of the appellant to a boys school vide enquiry report dated 17.07.2020. Accordingly, the impugned order dated 27.10.2020 came to be passed by the Collector.

10. After dismissal of the writ petition on 03.12.2020, the appellant had joined the Government Boys Higher Secondary School, Sarona on 16.02.2021.

11. In the attending facts and circumstances of the case and the order of the Collector having been approved by the Director, Public Instructions, we are of the considered opinion that no interference is called for with the order dated 27.10.2020 passed by the learned Single Judge and accordingly, writ appeal is dismissed.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(Goutam Bhaduri)
Judge