

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 408 of 2021**

Rijvan Ahmad Khan, aged about 32 years, S/o Jamil Ahmad Khan, R/o R.E.S. Colony, Shriram Nagar, Kanker, District Uttar Bastar Kanker (C.G.)

**---- Appellant****Versus**

1. The State of Chhattisgarh, through its Secretary, Revenue and Disaster Management, Mantralaya, Naya Raipur, District Raipur (C.G.)
2. The Collector, District Uttar Bastar Kanker (C.G.)
3. The Additional Collector, District Uttar Bastar Kanker (C.G.)
4. Vikaraj Gangval, P.H. No. 21, Belgal, Tahsil Pakhanjore, District Uttar Bastar Kanker (C.G.)

**---- Respondents**

(Cause-title taken from Case Information System)

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| For Appellant              | : | Mr. Parag Kotecha, Advocate.     |
| For Respondents No. 1 to 3 | : | Mr. Shubham Verma, Panel Lawyer. |

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**Hon'ble Shri Arup Kumar Goswami, Chief Justice****Hon'ble Shri Justice N.K. Chandravanshi, Judge****Judgment on Board****Per Arup Kumar Goswami, Chief Justice****01.12.2021**

Heard Mr. Parag Kotecha, learned counsel for the appellant. Also heard Mr. Shubham Verma, learned State counsel appearing for respondents No. 1 to 3.

2. The Registry has pointed out that order dated 29.10.2021 is not filed by the appellant.

3. Page 14 of the appeal papers is a memo dated 29.10.2021. Though it is styled as a memo, but the same is, in effect, an order. Therefore, the objection of Registry is over-ruled.

4. This appeal is taken up for consideration.

5. This appeal is presented against the order dated 04.10.2021 passed by the learned Single Judge in Writ Petition (S) No. 5387 of 2021. The challenge in the writ petition was to an order of transfer dated 16.09.2021, whereby, the appellant, who is a Patwari, was transferred from Arjuni to P.H. No. 299 Kanker to Bhanupratappur Sub Division.

6. The learned Single Judge observed as follows:

“4. All said and done, the plain reading of the impugned order clearly reflects that change of place of posting made by the Additional Collector, Uttar Bastar, Kanker. The distance between the two place of is not too far distance which could cause great inconvenience to the petitioner. Accordingly, this Court is reluctant to entertain the writ petition at this juncture. However, in case if the petitioner is not satisfied with the present place of posting, the only recourse available to the petitioner is to make appropriate representation to the authorities concerned which according to the petitioner he has already made and his representation is still pending consideration.

5. Given the said facts, respondent no.3 is directed to consider the representation of the petitioner on its own

merits in accordance with the transfer policy and rules of change of place of posting is concerned at the earliest preferably within a period of six months.

6. While deciding the representation of the petitioner, the authorities are also expected to consider the same keeping in view of the circular of the State Government dated 09.07.2021 in respect of shifting of the Patwaris from one place of another is concerned.

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

7. Pursuant to the aforesaid order of the learned Single Judge, the appellant submitted a representation dated 14.10.2021, which came to be disposed of by an order dated 29.10.2021. The appellant has filed an application under Order 41 Rule 27 of the Code of Civil Procedure to bring on record the representation dated 14.10.2021 and the order dated 29.10.2021 passed by the Deputy Collector.

8. The aforesaid fact of submitting a representation by the appellant demonstrates that the appellant, at the first instance, had no grievance against the order dated 04.10.2021 of the learned Single Judge and had acted upon the same, and therefore, the order had attained finality. It is only when the representation came to be dismissed, recourse is taken to challenge the order dated 04.10.2021 by filing this appeal. It will be impermissible to allow the appellant to approbate and reprobate.

9. In view of the above, we find no merit in this appeal and accordingly, the same is dismissed. No cost.

10. However, before parting with the records, we observe that if the appellant is aggrieved by the order dated 29.10.2021, the appellant will be at liberty to assail the same in accordance with law, if so advised.

Sd/-  
(Arup Kumar Goswami)  
Chief Justice

Sd/-  
(N.K. Chandravanshi)  
Judge