



NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**WPS No. 885 of 2023**

- Shivam Kumar Goswami S/o Shri Kunjan Ram Goswami Aged About 41 Years Working As Teacher (L.B.), Govt. Middle School, Baskar, Block- Bhaiyathan, District : Surajpur, Chhattisgarh

-----Petitioner

VERSUS

1. State of Chhattisgarh through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur, Chhattisgarh
2. The District Education Officer Surajpur, District : Surajpur, Chhattisgarh
3. The Block Education Officer Bhaiyathan, District : Surajpur, Chhattisgarh
4. Transfer Examination Committee Government of Chhattisgarh Mahanadi Bhawan, Mantralaya, Nawa Raipur, Atal Nagar, District : Raipur, Chhattisgarh

-----Respondents

For Petitioner : Mr. Sangeet Kushwaha, Advocate

For Respondents-State : Mr. Ansuman Shrivastava, Panel Lawyer

Single Bench: Hon'ble Shri Parth Prateem Sahu, Judge

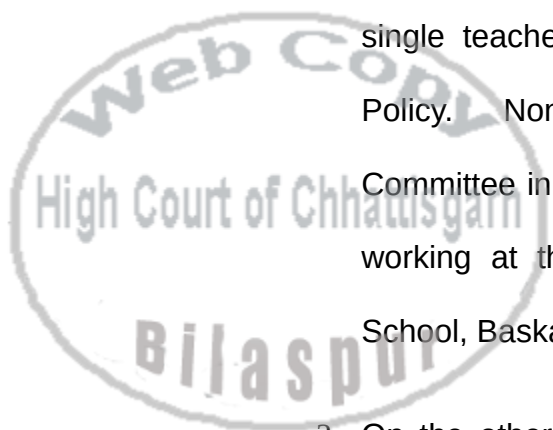
ORDER**31/01/2023**

1. Challenge in this writ petition is to the order dated 30.09.2022, Annexure P-2, as also the rejection order of representation of petitioner dated 11.01.2023 passed by the Committee constituted by the State Government under the Transfer Policy, 2022.
2. Learned counsel for petitioner submits that petitioner while working as Teacher (LB) was transferred *vide* order dated 30.09.2022 from Government Middle School, Baskar, Block Bhaiyathan, Dist. Surajpur to Government Middle School, Bahrasi, Block Bharatpur, Dist. Koriya. The said order of transfer was put to challenge by petitioner in WPS No. 7258/2022, considering the grounds raised in this writ petition of violation of clause 3.1 & 3.2 of the Transfer Policy, writ petition was disposed of directing the petitioner to submit a representation before



the Committee constituted under the Transfer Policy, 2022 and for a limited period, interim protection of not taking coercive steps against petitioner was also granted in his favour. Petitioner, immediately submitted a representation pursuant to the order passed by this Court and the Committee while considering the representation submitted by petitioner has rejected the representation in a very casual manner without deciding the grounds raised in the representation by a speaking order. He contended that petitioner has specifically taken a ground that he is holding the post of Teacher (Science) and after his transfer from the present place of posting, there will be no teacher of Science subject, to teach the students said subject and further that after his transfer, the school will become single teacher school which is also restricted under the Transfer Policy. None of the grounds have been considered by the Committee in an objective manner. He submits that petitioner is still working at the present place of posting ie., Government Middle School, Baskar, Block Bhaiyathan, Dist. Surajpur.

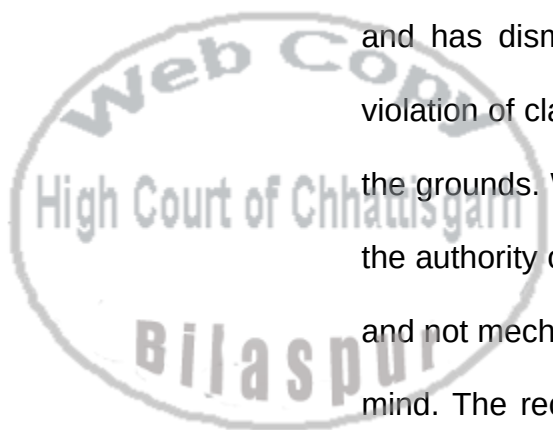
3. On the other hand, learned State counsel submits that perusal of order passed in WPS No. 7258/2022 as well as the representation submitted by petitioner would show that petitioner has raised the ground of violation of Clause 3.1 and 3.2 of the Transfer Policy and considering the grounds representation was rejected, however, if court comes to the conclusion that, grounds raised is not decided in appropriate manner, the matter can be remitted back to the concerned Committee for consideration of the ground raised by petitioner, in a proper manner.
4. I have heard learned counsel for the parties and also perused the documents placed on record.
5. When the petitioner approached this Court in earlier round of





litigation, taken the ground that petitioner is posted as Teacher (Science subject), posted at Government Middle School, Baskar, Block Bhaiyathan, Dist. Surajpur and after his transfer, there will be no teacher of Science subject in the school and further that after his transfer, the school will become single teacher school and has pleaded that transfer of petitioner is in violation of the clauses 3.1 and 3.2 of the Transfer Policy. In the representation also, petitioner has specifically pleaded both the grounds, however, the Committee constituted under the Transfer Policy, 2022 without considering the grounds of violation of clause 3.1 of the Transfer Policy, 2022 raised, only considered clauses 3.2, 3.3 and 3.4 and not clause 3.1 of the Transfer Policy which is specifically pleaded in the representation and has dismissed the representation mentioning that there is no violation of clauses of Transfer Policy without specifically dealing with the grounds. When once the grounds are raised the order passed by the authority on application/ representation should be reasoned order and not mechanised or casual. The order should reflect application of mind. The recommendation of the Committee is not supported with reasons.

6. In the aforementioned facts and circumstances of the case, order Annexure P-1 dated 11.01.2023, which is recommendation made by the Committee rejecting the representation of petitioner, is set aside. The matter is remitted back to the Committee to consider the claim of petitioner and decide the representation in objective manner considering all the grounds raised by petitioner in the representation, recording reasons, within a further period of 04 weeks from the date of receipt of copy of this order.
7. Till the decision of representation, status quo as it exists today with respect to place of posting of petitioner, shall be maintained.





8. Learned State counsel is also directed to inform the Committee with regard to order passed by this Court.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

/Pāwān

