



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 925 of 2023

- Smt. Shail Chandra W/o. Shri Vishwambhar Prasad Chandra Aged About 55 Years Presently Working As Principal, Govt. High School, Tangapani, Block Nagri Ps Sihawa, district Dhamtari Chhattisgarh. ---- **Petitioner**

Versus

1. State Of Chhattisgarh The Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur Chhattisgarh.
2. Director, Office Of The Directgorate, Public Education, Indrawati Bhawan, Atal Nagar, Naya Raipur Chhattisgarh.
3. District Education Officer, Dhamtari, District Dhamtari Chhattisgarh.
4. Transfer Committee Through The Coordinator, Department Of General Administration, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur Chhattisgarh. ---- **Respondents**

For Petitioner : Shri N Naha Roy, Advocate
For Respondents/State : Shri Kashif Shakeel, Dy GA

Hon'ble Shri Justice Parth Prateem Sahu

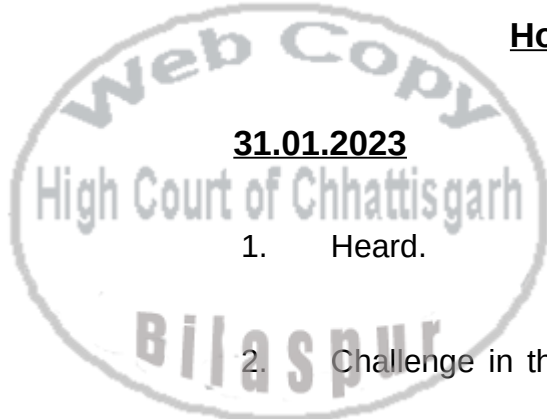
Order on Board

31.01.2023

1. Heard.

2. Challenge in this writ petition is to the order Annexure P1 dated 11.01.2023, which is recommendation of Committee constituted under Transfer Policy, rejecting representation submitted by petitioner and also order of transfer dated 30.09.2022 Annexure P3, whereby petitioner has been transferred from Government High School, Birgudi, Block-Nagri, district-Dhamtari to Government High School, Tangapani, Block-Nagri, PS-Sihawa, district-Dhamtari.

3. Learned counsel for petitioner would submit that petitioner has been shown to be transferred on her 'own request'. Transfer of petitioner mentioning 'on own request' is erroneous because, petitioner at any point of time, had submitted any application requesting her transfer, and therefore, submitted representation and when no decision was taken on her representation, petitioner filed WPS-7219 of 2022 which was disposed of directing petitioner to submit fresh representation before the Committee constituted under Transfer Policy and for limited period interim protection





of no coercive steps against petitioner is ordered. Petitioner submitted representation before the Committee raising specific ground that she has been transferred on own request without there being any application submitted by her, along with other grounds. Committee constituted under Transfer Policy for redressal of grievance of employee against transfer, while deciding representation though recorded the ground taken by petitioner that petitioner has not submitted any application for her transfer, rejected her representation that there is no provision in Transfer Policy for cancelling order of transfer on the ground raised in representation, which is highly arbitrary and without application of mind.

4. Learned counsel for the State submits that Committee has passed order considering the grounds raised in representation. However, upon asking the State Government with regard to finding recorded on the ground raised by petitioner of her not making any application requesting for transfer, he submits that on the said ground case can be remitted back to the Committee for deciding representation of petitioner afresh on all grounds.

5. Heard learned counsel for the parties.

6. Grievance of petitioner primarily is that ground raised by petitioner in her representation of not making any application for transfer is not considered and decided by the Committee.

7. Perusal of order dated 11.11.2022 passed in WPS-7219 of 2022 would show that petitioner has raised the ground that without there being any application requesting for transfer, she has been transferred mentioning 'on own request'. After passing of order in writ petition, petitioner submitted representation before the Committee constituted under Transfer Policy and in para-1 and 2 of it, there is specific pleading in this regard. Committee has also recorded grievance of petitioner including grievance of her transfer on own request without any application by her but Committee has not recorded any finding on the ground raised by petitioner that whether the ground raised is correct or not but have only dismissed representation on



the ground that there is no clause under Transfer Policy to interdict transfer on the said ground, which in the opinion of this Court, is arbitrary exercise of power, without application of mind. Employee can only be transferred 'on own request', if any request is made for his/her posting at a particular place, which is not there in the facts of the case as pleaded by petitioner before this Court and also in her representation.

8. For the foregoing, recommendation made by the Committee rejecting representation of petitioner is not sustainable and it is hereby set aside. Committee is directed to decide representation of petitioner afresh by a speaking order on all the grounds raised by her.

9. Till decision of representation, status *quo* as it exists today with respect to place of posting of petitioner shall be maintained.

10. Petitioner shall submit copy of order passed by this Court before the Committee constituted under Transfer Policy.

11. Accordingly, writ petition stands disposed of.

12. Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE