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HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2788 of 2023

- Smt. Karuna Khapardey W/o Suryaprakash Keshkar Aged About 30 Years, Lecturer (Maths) Govt. Higher Secondary School Pali Block District Korba Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through - its Secretary, School Education Department, Ministry, Mahanadi Bhawan, Capital Complex, Atal Nagar PS and PO Rakhi District Raipur Chhattisgarh.
2. Under Secretary, School Education Department, Ministry, Mahanadi Bhawan, Capital Complex, Atal Nagar PS and PO Rakhi District - Raipur Chhattisgarh.
3. District Education Officer, Korba, District - Korba Chhattisgarh.
4. Principal, Govt. Higher Secondary School, Pali Block- Pali District Korba Chhattisgarh

---- **Respondents**

For Petitioner :- Mr. Mateen Siddiqui, Advocate.

For State :- Mr. Ravi Bhagat, Deputy Govt. Advocate.

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

28.04.2023

Heard.

- 1) This writ petition has been filed against the cancellation of relieving order.
- 2) The petitioner is Assistant Teacher/Lecturer in Education Department working in local body. Vide order dated 30.09.2022 total 820 teachers were transferred. Some of the teachers were relieved by their superior authorities in pursuance of their transfer order. Later on, the State



Government found that on account of transfer of 235 teachers, 172 schools are being run by a single teacher, 19 schools have no teachers, 20 teachers were transferred during probation period, 15 teachers were transferred to the schools, where no posts are lying vacant, 3 teachers have been transferred from E-cadre to T-cadre, 5 teachers have been transferred from T-cadre to E-cadre and 1 teacher has been transferred contrary to the ratio of the students, and thus, 235 teachers were transferred contrary to the guidelines of Transfer Policy. It is also stated that out of 235 teachers 161 teachers have already been relieved, whereas, 74 are still performing their duties as they have not been relieved.

3) Learned counsel appearing for petitioner would submit that the transfer order was issued by the State Government, consequently, some of the teachers including the petitioner have been relieved and they have already joined their duties at the transferred places, therefore, the transfer orders cannot be modified by the State after its execution. He would further submit that incorrect information was given by the State that some of the schools are being run by a single teacher. Despite transfer order, some of the teachers have not been relieved and some of the teachers who have been relieved by the authorities are not permitted to join their services at the transferred places. Thus, learned counsel for the petitioner would submit that the action of the respondent authorities is arbitrary, illegal and contrary to the Transfer Policy.

4) On the other hand, learned State counsel would submit that on account of some inadvertence, incorrect information was uploaded in the portal, therefore, 235 teachers were transferred contrary to the Transfer Policy, however, those 235 teachers were transferred on their own request. He would further submit that a meeting was convened by the Chief



Secretary of State Government in pursuance of direction issued by this Court in WPS No. 1955 of 2023 on 17/03/2023 and decision has been taken to accommodate the teachers as per the Transfer Policy.

- 5) I have heard learned counsel for the parties and perused the documents.
- 6) It is not in dispute that the transfer order was issued by the State Government on 30.09.2022 and the State was under obligation to verify all the aspects as pointed out by the learned State Counsel, before issuance of the transfer order. In most of the cases, the teachers have joined their respective places of transfer. Though the corollary of the transfer order has created havoc as 172 schools are being run by a single teacher, 19 schools have no teachers, 20 teachers were transferred during probation period, 15 teachers were transferred to the school where no posts are lying vacant, 3 teachers have been transferred from E-cadre to T-cadre, 5 teachers have been transferred from T-cadre to E-cadre and 1 teacher has been transferred contrary to the ratio of the students, and it is also worthy to note that the teachers were transferred on their own request.
- 7) Considering the difficulty of the State, who has to run the schools and also considering the difficulty of the teachers, who have already joined at their respective place of transfer, in this situation, it would be appropriate to set-aside the transfer order dated 30.09.2022 issued against the 235 teachers. The State is directed to issue fresh posting order. The petitioner shall not be compelled to join against her wishes, the State shall take care of single teacher schools as well as teacher less schools, and also the issue of transfer of one cadre to another cadre and transfer of teachers to the school where no





posts are lying vacant.

- 8) During the course of argument, it was informed by the learned counsel for the parties that many of the schools have surplus teaching staff, therefore, the concerned authorities are directed to accommodate those teachers at the suitable place.
- 9) The authorities while issuing transfer orders shall consider the following factors:-
 - (i) Posting of teachers in teacher less and single teacher schools be done on priority basis;
 - (ii) If post is lying vacant then posting should preferably be done in the same institution or within same block;
 - (iii) If no post is lying vacant then posting may be done in the near by block or the adjoining blocks;
 - (iv) The authorities shall also bear in mind the surplus staff posted at a particular school, and accordingly issue the posting orders;
 - (v) The request of the teachers on medical ground;
 - (vi) Posting of spouse at the same station, where the other spouse is posted;
 - (vii) Request of teachers who are on the verge of retirement i.e. 1 year or less is left for their superannuation;
 - (viii) Request of teachers who are physically handicapped.

This entire exercise shall be carried out by the authorities within a period of 30 days from the date of receipt of copy of this order.

- 10) The teachers who are working at the transferred places or who have joined their new place of posting shall not be disturbed, if they are not in surplus.



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11) With the aforesaid observation(s)/directions(s), the writ petition is disposed of.

Sd/-

(Rakesh Mohan Pandey)
Judge

Aadil

