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IN THE HIGH COURT OF JUDICATURE AT BILASPUR  
(CHHATTISGARH)

WRIT PETITION 5216 OF 2005

PETITIONER:

TES RAM SAHU, S/o SHRI  
B.R. SAHU, — AGED ABOUT  
58 YRS.

R/o VILLAGE & POST —  
MADELI, VIA —  
KURUD, TAH. — KURUD  
DISTRICT — DHAMTARI

(C.G.)

Versus

RESPONDENTS

SECRETARY,

DEPARTMENT,

1. THE STATE OF C.G.  
THROUGH THE  
**SECRETARY**  
EDUCATION  
DEPARTMENT  
D.K.S. BHAVAN, RAIPUR  
(C.G.)

2. DISTRICT EDUCATION  
OFFICER, DHAMTARI  
(C.G.)

PETITION UNDER ARTICLE 226 & 227 OF THE CONSTITUTION  
OF INDIA FOR ISSUANCE OF APPROPRIATE WRITS,  
DIRECTIONS AND /OR ORDERS  
DETAILS OF THE PETITION

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(18)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><u>28/10/2005</u></p> <p>Shri S.C. Verma, learned counsel for the petitioner.</p> <p>Shri Akhil Agrawal, Panel Lawyer for the State/respondents.</p> <p>Heard.</p> <p>The petitioner, who is presently working on the post of Headmaster in Primary School, Dargahan, Dhamtari and has been transferred from Dargahan to Primary School Parsuli, vide impugned order dated 31/8/2005 has challenged the validity of the aforesaid order.</p> <p>The contention of learned counsel for the petitioner is that the petitioner was posted at Dargahan on 31/7/2004, and just after completion of one year he has again been transferred from Dargahan to Parsuli on administrative ground.</p> <p>The law in relation to interference by the Courts in the matter of transfer is now well settled. The Apex Court while dealing with the matter of <u>Kendriky Vidyalyaya Sangathan -Vs- Damodar Prasad Pandey, 2004 AIR SCW 5563</u> observed that the transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by <i>mala-fide</i> or infraction of any prescribed norms of principles governing the transfer. (please see <u>Ambani Kanta Ray -Vs- State of Orissa - 1995 (Suppl.) 4 SCC 169</u>).</p>	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP 5216/05 ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक या आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>Unless the order of transfer is vitiated by <i>mala fide</i> or is made in violation of operative guidelines, the Court cannot interfere with it. (<u>See Union of India -Vs- S.L. Abbas AIR 1993 SC 2444</u>). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by <i>mala fide</i> or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In <u>Union of India &amp; others -Vs- Janardan Debanath &amp; another (2004) 4 SCC 245</u>, it was observed as follows:</p> <p style="padding-left: 40px;">"No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of <i>mala-fide</i> exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such order passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in <u>National Hydroelectric Power Corpn. Ltd. -Vs- Shri Bhagwan (2001) 8 SCC 574</u>.</p>	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>In the facts and circumstances of this case, this second transfer after a period of one year could not be treated as frequent transfer and the same cannot be said to be an outcome of malafide. Since learned counsel for the petitioner could not point out that the aforesaid transfer is in violation of any statutory rules, I am not inclined to interfere with the aforesaid order.</p> <p>The petition has not merit and the same is dismissed.</p> <p>However, the petitioner is free to file representation before the concerned authority.</p> <p>C.C. as per rules.</p>	<p>Sd/- Sunil Kumar Sinha Judge</p>

27/5/06