

C.F. 100

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Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(S) NO 3827 /2012

PETITIONER

Inder Sai Paikara son of shri Thonday Sai
aged about 40 years Superintendent of
Pre Metric Boys Hostel Salka Thasil
Udaipur Distt Sarguja (C.G.)

J.R.No. ... WP (S) 3827/12
Presented by Shri ... R.V. Jayasankar
dated ... 29.8.12

VERSUS

RESPONDENTS

- 1 ✓ State of Chhatisgarh through Secretary
Panchayat and Rural Development
Department Raipur (C.G.)
- 2 ✓ Collector Sarguja Ambikapur. (C.G.)
- 3 ✓ Assistant Commissioner Tribal Welfare
Department Ambikapur district Sarguja (C.G.)
- 4 ✓ Block Education Officer Udaipur Tahsil
Udaipur District Sarguja (C.G.)
- 5 ✓ Awadhesh kumar Singh Assistant
Teacher Panchayat Primary school
Kharsura Tahsil Udaipur District Sarguja (C.G.)



WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA



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HIGH COURT OF CHHATTISGARH : BILASPUR

WRIT PETITION (S) NO.3827 OF 2012

PETITIONER

Inder Sai Paikara

Versus

RESPONDENTS

State of Chhattisgarh & Others

(Writ Petition under Article 226/227 of the Constitution of India)

Single Bench : Hon'ble Shri Satish K. Agnihotri, J.

Present :- Shri J.S. Baraik, Advocate for the petitioner.

Shri Pankaj Shrivastava, Panel Lawyer for the State.

ORDER

(Passed on this 31st day of August, 2012)

Heard learned counsel for the parties.

1. Notice to the respondents is dispensed with, as Shri Pankaj Shrivastava, learned Panel Lawyer appears on behalf of the State/respondents No.1 to 4, and consents for hearing.
2. Contention of the learned counsel for the petitioner is that the proper authority for transferring the petitioner is Assistant Commissioner, Tribal Welfare, Ambikapur, (for short "the Assistant Commissioner"), as is evident from the earlier transfer order dated 29-8-2006 (Annexure – P/3) whereunder the petitioner was transferred to Boys Hostel, Salka, Block Udaipur. The impugned transfer order dated 16-8-2012 (Annexure – P/1) has not been passed by the Assistant Commissioner, but by the Block Education Officer, Udaipur, who is not competent to change the order passed by the Assistant Commissioner, Tribal Welfare.
3. On the other hand, learned counsel appearing for the State submits that the order dated 16-8-2012, which is under challenge, is only order indicating implementation of the original transfer order dated 6-8-2012 passed by the Assistant Commissioner. Thus, the Block Education Officer, being incompetent to transfer the petitioner, has not passed the order dated 16-8-2012, but implemented the order dated 6-8-2012 passed by the Assistant Commissioner.
4. In view of that, the contention of the learned counsel for the petitioner is not based on facts. Thus, the petition is liable to and is hereby dismissed at the motion stage itself.

Gowri

Sd/-
Satish K. Agnihotri
Judge