

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 7858 of 2018

Dr. Shyamsundar Agrawal S/o Late Shri Krishna Agrawal, Aged About 60 Years, Working On The Post Of Post Graduate Principal, Government Revati Raman Mishra, P.G. College, Surajpur, District-Surajpur, Chhattisgarh.

---Petitioner

**Versus**

1. State Of Chhattisgarh, Through Its Secretary, Department Of Higher Education Ministry At Mahanadi Bhawan, New Raipur, P.S. Rakhi, District- Raipur, Chhattisgarh.
2. Regional Deputy Director (Higher Educaion Department) Ambikapur, District- Surguja, Chhattisgarh.
3. Principal, Revati Raman Mishra, P.G. College, Surajpur, District-Surajpur, Chhattisgarh.
4. Principal, Government Dr. Jwala Prasad Mishra P.G. College, Mungeli, District- Mungeli, Chhattisgarh.

---Respondents

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For petitioner	:	Shri R.K.Jha, Advocate.
For State	:	Shri Syed Majid Ali, Dy.G.A.

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Hon'ble Shri Justice P. Sam Koshy

Order on Board

30/11/2018

1. Present is a second round of litigation.
2. The grievance subsequently is the order of transfer dated 05/06/2018 whereby the petitioner has been transferred from P.G. College, Surajpur to the office of Deputy Director Regional Office, Durg.
3. The order of transfer was subjected to challenge before the Court vide WPS No. 5786/2018 which stood decided on 06/09/2018. While deciding the Writ Petition, this Court had directed the authorities concerned to take a

decision on the representation which the petitioner shall file and till the representation is decided, the petitioner should not be relieved from his earlier place of posting.

4. Subsequent to the disposal of the said Writ Petition, the authorities have rejected the representation which has led to the filing of the present Writ Petition.

5. At this juncture, it would be relevant to peruse the impugned order dated 19/11/2018 which for ready reference is reproduced herein under:-

“ उपरोक्त विषयांतर्गत संदर्भित पत्र के संबंध में आपके द्वारा प्रस्तुत अभ्यावेदन पूर्ण विचारोपरांत अमान्य किया जाता है।”

6. A plain reading of the order by itself would reveal that the authorities concerned have not applied its mind while deciding the impugned order.

7. Moreover, the impugned order is so cryptic that it is only a single line order simply holding that the application after due consideration stand rejected.

8. So far as giving reasons to be given while deciding a matter is concerned, it is no-longer res-integra that the authorities while deciding the matter more particularly when there is a specific direction by this Court for deciding the matter to the authorities concerned they should have given some reasons for arriving at the conclusion that they have reached at.

9. It is now well settled principles of law that giving reasons is a indispensable component of decision making process and the same equally applies upon Quasi Judicial authority and even upon the administrative bodies. The Supreme Court always has opined that the order passed by

Quasi Judicial authority or even the administrative authority affecting rights of the parties must be a speaking order. The question regarding recording of reasons, its importance and necessity came up for consideration before the Supreme Court in case of *Kranti Associates Private Limited & Another Vs. Masood Ahmed Khan & Others* (reported in 2010 (9) SCC 496) wherein the Supreme Court has extensively and elaborately dealt with the issue of need of giving reasons.

10. Similarly in case of *East Coast Railway and Another Vs. Mahadev Appa Rao and Others with K. Surekha Vs. Mahadeo Appa Rao and Others* (reported in 2010(7)SCC 678), the Supreme Court in a very categorical terms has held that Arbitrariness in making of an order by an authority can manifest itself in different forms. Every order passed by a public authority must disclose due and proper application of mind by the persons making the order. Application of mind is best demonstrated by disclosure of mind by the authority making the order and disclosure is best done by recording the reasons that led the authority to pass the order in question. Absence of reasons either in the order passed by the authority or in the record contemporaneously maintained is clearly suggestive of the order being arbitrary hence legally unsustainable. In the absence of reasons in support of the order it is difficult to assume that the authority had properly applied its mind before passing of the order.

11. Likewise, again in case of *Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota Vs. Shukla and Brothers* (reported in 2010(4)SCC 785), the Supreme Court has held that “recording

of reasons is an essential feature of dispensation of justice. Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the ground which weighted with the authority in rejecting him claim and also causes impediments in his taking adequate and appropriate grounds before the higher court in the event of challenge to that order”.

12. Given the aforesaid facts and findings as also the principles of law laid down by the Hon'ble Supreme Court, this Court is of the opinion that the impugned order which is a part of Annexure-P/1 dated 19/11/2018 is not sustainable in as much as it is a non-speaking order without any sort of reasons and therefore it deserve to be and is accordingly set-aside/quashed and the matter stands remitted back to the authorities concerned for reconsidering the representation of the petitioner and to pass a reasoned order giving justification to their findings.

13. It is further ordered that till fresh order is passed by the authorities concerned, the petitioner would not be relieved from his present place of posting i.e. from P.G. College, Surajpur.

14. The Writ Petition accordingly stands allowed and disposed off.

Sd/-

**(P. Sam Koshy)**  
**JUDGE**