

(2018) 08 CHH CK 0100

Chhattisgarh High Court

Case No: Writ Petition (S) No. 3814 Of 2018

Sumitra

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Aug. 7, 2018

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Akath Kumar Yadav, Shashank Thakur

Final Decision: Allowed/Disposed Of

Judgement

P. Sam Koshy, J

1. The present Writ Petition has been filed challenging the Annexure-P/1 dated 16/04/2018 whereby the services of the petitioner who was working as

a Secretary, Gram Panchayat Patewa, Janpad Panchayat Wadrafnagar, District Balrampur - Ramanujganj (C.G.)

2. The foremost ground which the counsel for the petitioner has raised is that, the impugned order has been passed by an incompetent person in as

much as under the rules/guidelines governing the field, the competent authority to issue the order of transfer was the CEO, but in the instant case, the

order of transfer has been passed by the Deputy Director (Panchayat) and who is otherwise not authorized with the transfer and posting of the employees working in the Gram Panchayat.

3. The counsel for the petitioner referred to the guidelines governing the service condition of the Panchayat Karmis dated 29/08/2008. The clause 8 of the said guidelines is reproduced herein under:-

â€™ â€™

4. The plain reading of the aforesaid provision itself would reveal that, whenever the transfer has to be made either on a complaint or the transfer

made on request, it is the CEO of the Janpad Panchayat who has been empowered with the power for issuance of transfer with the recommendation

of CEO of the concerned Zila Panchayats.

5. In the instant case, there does not appear to be any such grounds available to the respondents before issuance of the impugned order.

6. The State counsel tried to take shelter of the fact that, the aforesaid clause 8 only defines or empowers the CEO for issuance of the order of

transfer in the event of a complaint or when the order of transfer is been made on own request which according to him means that when it has to be

made on administrative exigency, the Director/Deputy Director of Panchayat Department would be fully empowered to pass the order of transfer.

7. The said contention of the State counsel may not be sustainable for the reason that, the guidelines nowhere prescribes the Director/Deputy Director

(Panchayat) enabling them to pass orders of transfer so far as the Panchayat Karmis are concerned.

8. In the absence of any express rule, guideline or circular in this regard empowering the Deputy Director for issuance of transfer so far as the

Panchayat Karmis are concerned, the impugned order Annexure-P/1 is not sustainable and the same deserve to be and is accordingly set-aside.

9. Reserving the right of the respondents for passing an appropriate order in accordance with the guidelines governing the field, the instant Writ

Petition stands allowed and disposed off.