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**(2006) 02 CHH CK 0054**  
**In the Chhattisgarh High Court**  
**Case No : Writ Petition No. 1827 of 2003**

Itwari Lal Ajgole

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

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**Date of Decision :** 06-02-2006

**Acts Referred:**

**Citation :** (2006) 2 MPHT 55

**Hon'ble Judges :** Satish K. Agnihotri, J

**Bench :** Division Bench

**Advocate :** Ashish Shrivastava, for the Appellant; Pankaj Shrivastava, Panel Lawyer for Respondent Nos. 1 to 3 and State and Sunita Jain, for the Respondent

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## Judgement

Satish K. Agnihotri, J.—The petitioner, who was working as Block Education Officer at Gharghoda, District Raigarh was transferred vide order dated 3-5-2003 (Annexure P-3) to the Government Higher Secondary School, Khamhar, Block Development Dharamjaigarh, District Raigarh.

2. The petitioner has challenged the impugned transfer order dated 1-2-2003 (Annexure P-2) also whereby the respondent No. 4 was transferred from the post of Lecturer, Government Higher Secondary School, Urba, Block Development Tamnar, District Raigarh on his own expenses to the post of In-charge Block Education Officer, Gharghoda, District Raigarh in place of the petitioner.

3. The petitioner has filed this petition challenging impugned transfer order on the ground that the impugned transfer order dated 3-5-2003 (Annexure P-3) was malafide exercise of power to accommodate the respondent No. 4 at the office of Block Education Officer, Gharghoda, District Raigarh.

4. This Court, vide interim order dated 26-3-2003 granted relief to the extent that the petitioner would be allowed to continue till the next date of hearing, if the petitioner had already not been relieved. This order was neither varied nor modified later on. By virtue of this interim order, the petitioner continued at the old place of posting.

5. Learned Counsel for the petitioner submits that this impugned orders dated 3-5-2003 and 1-1-2003 deserve to be quashed because it amounts to malafide exercise of powers.

6. I have gone through the documents appended to the petition and heard learned Counsel for the parties. The petitioner has not proved any malafide except that the respondent No. 3 has transferred the petitioner to accommodate the respondent No. 4 in place of the petitioner. The alleged mala fide is not proved. Even otherwise, the petitioner has got final relief by way of interim order. Even if the impugned orders are quashed, the net effect would have been that the petitioner have continued at the same place of posting that the petitioner already enjoyed by virtue of the interim order passed by this Court.

7. In the facts of the case, it is not necessary to go into the validity of the impugned order at this stage in detail. However, respondents/authorities are expected that they would not insist upon compliance of the impugned transfer orders dated 1-2-2003 and 3-5-2003.

8. The respondents/authorities have liberty to post an employee at a particular place in the public interest as well as in administrative exigency, in accordance with law.

9. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee is to be posted in the interest of administration and public. This Court has limited jurisdiction to interfere in transfer matters and this Court can interfere only in the case of proved malafide, non-competence of the authority passing the transfer order, and order not being in conformity with the rules and regulations.

10. In view of the above, the petition is disposed of. No order as to costs.