

(2025) 12 JH CK 1942
In the Jharkhand High Court
Case No : Writ Petition (S) No.6866 Of 2025

Krishna Kanhaiya, S/o Harun Sahu

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 01-12-2025

Acts Referred:

Citation : (2025) 12 JH CK 1942

Hon'ble Judges : Ananda Sen, J

Bench : Single Bench

Advocate : Ashok Kumar Sinha, Anshuman Kumar, Krishna Prajapati, Arbind Kumar

Final Decision : Allowed

Judgement

Ananda Sen, J

1. Heard learned counsel representing the petitioner and learned counsel representing the respondents.
2. By filing this writ petition in the nature of certiorari, the petitioner has prayed for quashing of Office Order No.69 / Ranchi, dated 14.11.2025, as contained in Memo No.1205 / Ranchi dated 14.11.2025 (Annexure-1 to the writ petition), whereby the petitioner has been transferred from Agriculture Produce Market Committee, Ranchi to Agriculture Produce Market Committee, Chakuliya.
3. The grievance of the petitioner is that the transfer order is stigmatic in nature and casts aspersion against the petitioner. It is his case that the transfer order has been passed by way of punishment, which is illegal, as no transfer can be made as a way of punishment without following the procedure of law.
4. Since this is a writ of certiorari and the impugned transfer order speaks for itself, I am not calling for the counter affidavit.
5. After going through the transfer order, I find that the same is stigmatic, as it has been mentioned in the order that since the performance of the petitioner is

unsatisfactory and he is negligent in performing his duties, he should be transferred. This clearly suggests that the transfer is by way of punishment. When an order of transfer is passed in lieu of punishment, the same cannot be sustained.

6. The Hon'ble Supreme Court in the case of *Somesh Tiwari v. Union of India* reported in (2009) 2 SCC 592, at para-16, held as follows:-

"16. Indisputably an order of transfer is an administrative order. There cannot be any doubt whatsoever that transfer, which is ordinarily an incident of service should not be interfered with, save in cases where inter alia mala fide on the part of the authority is proved. Mala fide is of two kinds—one malice in fact and the second malice in law. The order in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of transfer and based on an irrelevant ground i.e. on the allegations made against the appellant in the anonymous complaint. It is one thing to say that the employer is entitled to pass an order of transfer in administrative exigencies but it is another thing to say that the order of transfer is passed by way of or in lieu of punishment. When an order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal."

7. Admittedly, there is no notice or show cause issued to the petitioner nor any departmental proceeding has been conducted before passing the transfer order, substantiating the charges against him i.e. unsatisfactory performance. Thus, I am inclined to set aside the impugned transfer order. Office Order No.69 / Ranchi, dated 14.11.2025, as contained in Memo No.1205 / Ranchi dated 14.11.2025 (Annexure-1 to the writ petition), is hereby quashed and set aside.

8. The matter is remitted to the Authorities to decide the case of the petitioner after giving him the opportunity.

9. Accordingly, this writ petition stands allowed. No order as to costs.