2025:CGHC:50788-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 735 of 2025

Sanjay Kumar Yadav S/o Roopsen Yadav Aged About 49 Years R/o Village And Post Sanora, Block Narharpur, Distt. North Bastar Kanker, C.G. (Petitioner In Writ Petition)

... Appellant

versus

1 - State of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Atal Nagar, New Raipur, Distt. Raipur, Chhattisgarh.

2 - The Director Directorate of Public Instructions, Indravati Bhawan, Atal Nagar, New Raipur, Distt. Raipur, Chhattisgarh.

3 - The Joint Director Education Division, Bastar, Jagdalpur, Distt. Bastar, Chhattisgarh.

4 - The Collector Distt. North Bastar Kanker, Chhattisgarh.

5 - The District Education Officer And Secretary District Rationalization Samiti, Distt. North Bastar Kanker, Chhattisgarh.

... Respondents

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Goutam Khetrapal, Advocate
For Respondents	:	Mr. Yashwant Singh Thakur, Additional Advocate General

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Amitendra Kishore Prasad, Judge
Judgment on Board

***Per* Ramesh Sinha, Chief Justice**
13.10.2025

1 Heard Mr. Goutam Khetrapal, learned counsel for the appellant as well as Mr. Yashwant Singh Thakur, learned Additional Advocate General, appearing for the State/respondents on I.A. No.02, which

is an application for condonation of delay of 17 days in preferring the appeal.

2 For the grounds assigned in the application (I.A. No.02), the same is allowed. Delay of 17 days in filing the writ appeal is hereby condoned.

3 By way of this writ appeal, appellant has prayed for following relief(s):-

> *"I. the order dated Set-aside/quash impugned 09.07.2025 passed by the learned Single Judge in Writ Petition (S) No. 7460 of 2025 (Annexure A/1) by allowing the writ petition filed by the appellant before the learned Single Judge.*
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> *II. Set-aside/quash the order dated 09.06.2025 (Annexure P/1) and further be pleased to direct the respondent authorities to post the appellant at Govt. Girls Higher Secondary School, Abhanpur, Block-Narharpu, District-North Bastar Kanker.*
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> *III. That, any other relief/order which may deem fit and just in the facts and circumstances of the case including award of the costs of the appeal may be given."*

4 The present intra Court appeal has been filed against the order dated 09.07.2025 passed by the learned Single Judge in Writ Petition (S) No.7460/2025 (*Sanjay Kumar Yadav v. State of Chhattisgarh and others*) whereby the writ petition filed by the

appellant/writ petitioner before the learned Single Judge has been dismissed.

5 Brief facts of the case projected before the learned Single Judge, in nutshell, are that the appellant/writ petitioner was working as Lecturer (History) and is posted at Government Girls Higher Secondary School, Abhanpur, District Kanker. He has been declared a surplus teacher and transferred vide the impugned transfer order dated 09.06.2025 to High School, Rajpur, District Baster. The petitioner had appeared in the counseling held on 04.06.2025, but due to the non-availability of any vacant post in History/Political Science, he was required to appear in the Divisional level counseling on 09.06.2025 at Jagdalpur, following which he was transferred to District Baster. The in-charge Principal (Lecturer, History) of Government Girls Higher Secondary School, Abhanpur was promoted on 30.04.2025, and since the petitioner was already posted as Lecturer (History), the post at Abhanpur became vacant after the promotion. The petitioner therefore claimed that he should have been allowed to continue at Government Girls Higher Secondary School, Abhanpur, and submitted representations to the respondent authorities on 16.06.2025 to respondent No.4 and on 01.07.2025 to respondent No.3 requesting that his transfer be reconsidered.

6 Subsequently, the appellant/writ petitioner joined his transferred place of posting on 12.06.2025. However, since a vacant post for

Lecturer (History) exists at Government Girls Higher Secondary School, Abhanpur, the petitioner seeks to be allowed to remain at Abhanpur and prayed for the quashing of the impugned transfer order dated 09.06.2025 by way of filing a writ petition being Writ Petition (S) No.7460/2025, which was dismissed by the learned Single Judge vide order dated 09.07.2025.

7 Challenging the aforesaid order dated 09.07.2025 passed by the learned Single Judge in the writ petition being Writ Petition (S) No.7460/2025, the instant appeal has been filed by the appellant/writ petitioner in the writ petition.

8 Learned counsel for the appellant/writ petitioner submits that the impugned transfer order dated 09.06.2025 is perverse, unwarranted, and liable to be set aside/quashed. It is contended that the learned Single Judge erred in dismissing the writ petition on the ground that the petitioner had already joined the place of transfer. This finding is perverse and contrary to the law laid down by the Hon'ble Supreme Court in ***The Tamil Nadu Agricultural University & Anr. vs. R. Agila & Others, SLP (C) Nos. 13070–13075/2022, decided on 20.08.2024***, wherein it has been held that joining under compulsion or protest does not preclude a person from challenging an administrative order. Learned counsel further submits that the petitioner had joined the transferred place of posting under protest, as he was compelled by the respondent authorities, and therefore retains the right to challenge the

impugned transfer order dated 09.06.2025. It is pointed out that the State Government has now posted Ramprasad Netam as Principal, leaving the post of Lecturer (History) vacant at Government Girls Higher Secondary School, Abhanpur, District-North Bastar, Kanker. The petitioner's continued posting at Abhanpur would ensure that the vacant post is filled appropriately.

9 It is further submitted that the learned Single Judge failed to consider that the Principal of Government Girls Higher Secondary School, Abhanpur, had requested the authorities not to declare the petitioner surplus and to allow him to continue at his present place of posting. In addition, the petitioner had made timely representations seeking amendment of the transfer order, but no action has been taken thereon. Learned counsel emphasizes that the impugned transfer order is also contrary to the rationalization policy issued by the State Authority, as the posting left Government Girls Higher Secondary School, Abhanpur, without a Lecturer in History, thereby defeating the objective of rationalization. It is further submitted that in identical matters, including ***Writ Appeal No. 1955/2023 (Dharmendra Kumar Chelak vs. State of Chhattisgarh & Others), decided on 21.04.2023,*** the Coordinate Bench of this High Court laid down specific guidelines for posting and transfer of teachers, which have not been followed by the respondent authorities in the present case.

10 Lastly, it is submitted that while conducting counseling for surplus teachers, the respondent authorities failed to disclose the availability of vacant posts at schools in District Kanker, including the post of Lecturer (History) at Government Girls Higher Secondary School, Abhanpur, thereby depriving the petitioner of a fair opportunity. As such, the impugned transfer order dated 09.06.2025 being arbitrary, deserves to be quashed.

11 On the other hand, learned counsel for the State/respondents opposed the submissions of learned counsel for the appellant and submits that the impugned transfer order dated 09.06.2025 is in accordance with law and administrative policy. It is contended that the petitioner has already joined the place of posting, and the transfer has been effected following the surplus teacher rationalization and counseling process. The State further submits that no illegality or procedural irregularity is made out, and the writ petition was rightly dismissed by the learned Single Judge.

12 Learned counsel also draws attention to the judgment of this Court in ***Writ Appeal No. 529/2025 (Smt. Pooja Yadav vs. State of Chhattisgarh & Others), decided on 28.07.2025***, wherein a similar issue was considered, and the appeal filed by the appellant/writ petitioner was dismissed, reinforcing that the present appeal has no merit.

13 We have heard learned counsel appearing for the parties at length and carefully considered their rival submissions. We have

also perused the record of the case, including the impugned order dated 09.07.2025 passed in Writ Petition (S) No.7460/2025.

14 After appreciating the submissions of learned counsel for the parties therein as also the materials on record, the learned Single Judge while relying upon the judgment rendered by the Hon'ble Supreme Court in ***U.P. Singh v. Punjab National Bank, 2023 INSC 1077*** as well as the judgment passed by the Division Bench of this Court in ***Tarun Kanungo v. State of Chhattisgarh in Writ Appeal no.248/2015 decided on 15.05.2015,*** has passed the impugned order in following terms:-

> *"5. The petitioner has challenged his transfer order dated 09.06.2025 which has already been executed and he has joined at her transferred place of posting on 12.06.2025. After joining at the transferred place of posting, the petitioner has filed the present writ petition on 03.07.2025 and in between that period he remained working at her transferred place of posting.*
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> *6. In the matter of U.P. Singh vs. Punjab National Bank reported in 2023 INSC 1077 in Para - 10 the Hon'ble Supreme Court has held that:*
>
> > *"10. A person aggrieved by the order of transfer cannot sit at home and decide on his own that the order is illegal or erroneous and he will not comply with the same. If the workman had any grievance,*

he could have availed of his remedy available against the same; otherwise, he was duty-bound to comply with the same. Failure to avail of any remedy also would mean that he had accepted the order and was duty-bound to comply with the same. At a later stage, he could not take a plea that the order being erroneous, no consequence would follow for its non-compliance."

7. The Hon'ble Division Bench of this Court in the matter of Tarun Kanungo vs. State of Chhattisgarh & Others order dated 15.05.2015 passed in WA No. 248/2015 has held in Para-3 that:

The question for cancellation of an order not in existence does not arise. The only option available to the authorities was to issue any fresh orders. We may appropriately refer to two Bench decisions in 2000 (2) PLJR 332 (Smt. Jyotsna Kumari v. The State of Bihar) and 2000 (3) PLJR 139 (Mahmood Azam Siddique v. The State of Bihar) observing as follows:

"12. Now it is a settled law that once an order of transfer issued and acted upon, it is spent its force. Thereafter, no substantive part remains to be stayed or rescinded and any order to that effect is redundant."

8. From the rationalization instructions dated

> *02.08.2024 the petitioner could not demonstrate any violation of the conditions of the said instructions issued by the State Government for rationalization of the teacher merely making the representation does not entitle the petitioner to be remained there particularly when he has already joined at her transferred place of posting.*
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> *9. Accordingly, I do not find any scope of interference in the petition and the same is liable to be and hereby dismissed."*

15 Having heard learned counsel for the parties at length and upon a careful perusal of the record, including the impugned order dated 09.07.2025 passed in Writ Petition (S) No.7460/2025, it is apparent that the appellant/writ petitioner challenges his transfer order dated 09.06.2025 after he had already joined the transferred place of posting on 12.06.2025. The appellant's grievance that he should have been allowed to continue at Government Girls Higher Secondary School, Abhanpur, is primarily based on the availability of a vacant post following the promotion of the in-charge Principal.

16 It is observed that the learned Single Judge rightly relied upon the judgment of the Hon'ble Supreme Court in ***U.P. Singh*** *(supra)*, which lays down that a person aggrieved by a transfer order cannot arbitrarily refuse to comply with it and later seek its quashing after joining the transferred post. Similarly, the Division Bench of this Court in ***Tarun Kanungo*** *(supra)* has held that once a transfer order has been executed, it ceases to have operative

effect, and the remedy lies in issuance of fresh or appropriate orders, not in challenging an already executed transfer.

17 The petitioner's contentions regarding representations made to the authorities, alleged violation of rationalization instructions, and non-consideration of guidelines laid down in previous judgments, including **Writ Appeal No.1955/2023 (*Dharmendra Kumar Chelak vs. State of Chhattisgarh & Others*)**, do not provide a ground for interference, as he had already joined his transferred place of posting and continued to work there. The State has further demonstrated that the transfer was in accordance with the surplus teacher rationalization policy and counseling procedure, and no procedural or legal irregularity is made out.

18 The reliance placed by the appellant on judgments permitting challenge to transfers executed under protest, including ***The Tamil Nadu Agricultural University*** *(supra)*, is not applicable in the present case because the transfer has been fully executed and the petitioner has continued to serve at the transferred school. Moreover, this Court has recently dealt with a similar issue in ***Writ Appeal No.529/2025 (Smt. Pooja Yadav vs. State of Chhattisgarh & Others), decided on 28.07.2025***, wherein an appeal challenging an executed transfer was dismissed, underscoring that no merit exists in the present appeal.

19 In view of the above, it is concluded that the appellant has no legal right to remain at his previous place of posting once the

transfer order has been implemented. The impugned order dated 09.07.2025 passed by the learned Single Judge, dismissing Writ Petition (S) No.7460/2025, is therefore upheld, and the present writ appeal is **dismissed**.

20 There shall be no order as to costs.

Sd/-
(Amitendra Kishore Prasad)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Anu