



CGHC010271712026



2026:CGHC:30256

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5385 of 2026**

Mohammad Wasim Khan S/o Mohammad Nasim Khan Aged About 35 Years Working As Assistant Engineer, Municipal Corporation Raipur, District- Raipur (C.G.)

... Petitioner(s)**versus**

1 - State Of Chhattisgarh Through Secretary, Department Of Urban Administration And Development Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)

2 - The Director Directorate Of Urban Administration And Development, Indrawati Bhawan Atal Nagar, Nawa Raipur, District- Raipur (C.G.)

3 - The Municipal Corporation Raipur, Through The Commissioner Municipal Corporation, Raipur Distt. Raipur (C.G.)

4 - The Census Charge Officer Zone No. 1, Municipal Corporation, Raipur, Distt. Raipur (C.G.)



5 - Shri Ajit Rathor Deputy Engineer, Municipal Corporation Birgaon,
Distt. Raipur (C.G.)

... Respondent(s)

(Cause title taken from CIS)

For Petitioner(s)	: Ms. M. Asha, Advocate
For Respondent/State	: Shri Gary Mukhopadhyay, Addl. Advocate General
For Respondent No. 3	: Ms. Swati Agrawal, Advocate appears on behalf of Shri Pankaj Agrawal, Advocate

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

16.07.2026

1. By the present petition, under Article 226, the petitioner seeks quashment of the posting order dated 11.07.2026, wherein, the petitioner has been transferred from Municipal Corporation Raipur to Municipal Council Akaltara, Distt, Janjgir-Champa (C.G.) on the post of Sub-Engineer. In the said order his name is at serial No. 28.
2. According to the petitioner by order dated 11.07.2026, the petitioner has been transferred from Raipur to Akaltara by assigning the reason of administrative exigency. Though, no pleading with respect to violation of Section 58(5) & (6) of the



Act, 1956 has been made in the writ petition, during the course of arguments, learned counsel would submit that the employees of one Municipal Corporation cannot be transferred to another Municipal Corporation as provided under Section 58(5) and (6) of the Municipal Corporation Act 1956. In support of her contention, learned counsel would place reliance upon the decision of the High Court of Madhya Pradesh Bench at Indore in the matter of ***Jitendra Shrivastava Vs. State of M.P. & another in WP No. 4045/2017***, wherein service of petitioner was transferred from Municipal Ujjain Corporation to Municipal Corporation Ashoknagar. The High Court of Madhya Pradesh, quashed the transfer order by relying upon the order of Full Bench in the case of ***Indore Nagar Nigam Karmachari Sangh***, reported in **1998 (1) MPLJ 449**. Learned counsel would raise another ground that the mother of the petitioner is suffering from several ailment and no body is there to take care of her. She would submit that if the petitioner, has been transferred to a place which is situated at a distance of about 150 km from the present place of posting, the petitioner as also his entire family shall suffer irreparably including the newly born child of the petitioner.



3. On the other hand, learned State counsel as also the learned counsel for the corporation opposes the submission made by learned counsel for petitioner and would submit that present writ petition is without any substance and deserves to be dismissed as petitioner has failed to demonstrate any infringement of right for which a writ may be issued by this Court. There is no violation of Section 58 (5) of the Chhattisgarh Municipal Corporation Act, 1956 (hereinafter referred as "the Act of 1956") in passing the order of the petitioner. The Section 58 (5) of the Act, 1956 empowers the State Government to transfer any officer or servant of a Municipal Corporation to any other Municipal Corporation without consultation of the officer or servant concerned and also of the Corporation concerned. Further, the Act of 1956, Section 58 (6) protects the lien on the post of officer or servant and also protects the pay and allowance as entitled in the parent corporation, therefore, the grounds raised by the petitioner that, the transfer is in violation of the rules and is apprehending of seniority, pay and allowances being adversely affected, is not well-founded. In support of their contention, they placed reliance upon the the decision of



Hon'ble Supreme Court in the case of ***State of U.P. and another vs. Siya Ram and another, reported in (2004) 7 SCC 405*** has held that, transfer, is not only an incident of service, but a condition of service as well and is necessary in public interest and efficiency in public administration. It is further contention of learned State counsel that the impugned order passed by the respondent authorities, is proper, legal, within the jurisdiction and strictly in accordance with law, therefore, there is no infirmity or illegality in the same. As far as the personal difficulties of the petitioner is concerned, proper treatment facility etc. will be available at the transfer place and its nearby placed, therefore the petition filed by the petitioner is devoid of merit and substance, thus, deserves to be dismissed at the threshold.

4. I have heard learned counsel for the parties and also perused record as well as the documents appended with the writ petition.
5. Perusal of the record as well as the impugned orders shows that, petitioner, a sub engineer has been transferred from Municipal Corporation Raipur to Municipal Council Akaltara.



6. On conscious appreciation of the grounds raised by the petitioner with respect to Section 58 (5) and Section 58 (6) of the Act of 1956, transfer can be made only on deputation or having taken lien, whereas in the present case, the order impugned is purely a transfer order. Hence on this ground alone, transfer of the petitioner is contrary to the provisions of the Act 1956. Transfer order passed by respondent shows that it was neither a deputation order nor a lien, as such, transfer order passed in respect of petitioner cannot be said to be in accordance with law.
7. Accordingly, the writ petition is allowed. Impugned order 11.07.2026, (Annexure P/1), in respect of the petitioner is hereby quashed. However, liberty is reserved in favour of the State/respondents that, if they so desire or if any administrative exigency so requires, they may send the petitioner on deputation in accordance with the provisions of the Act of 1956.

Sd/-

(Bibhu Datta Guru)
Judge