

मध्यप्रदेश शासन  
सामान्य प्रशासन विभाग  
मंत्रालय वल्लभ भवन भोपाल

क्रमांक एफ 6-3/2004/1/9

भोपाल, दिनांक 11 अगस्त, 2004

प्रति,

1. समस्त अपर मुख्य सचिव/प्रमुख सचिव/सचिव  
मध्यप्रदेश शासन.
2. कृषि उत्पादन आयुक्त,  
मध्यप्रदेश भोपाल.

**विषय.**—रिटपिटिशन क्रमांक 5260/2004 डॉ. जगतसिंह परिहार मध्यप्रदेश शासन एवं अन्य दो स्थानान्तरण नीति के विरुद्ध पारित स्थानान्तरण आदेशों के संबंध में.

विषयान्तर्गत माननीय उच्च न्यायालय द्वारा पारित आदेश की छायाप्रति संलग्न है. इस आदेश में मुख्य रूप से न्यायालय द्वारा स्थानान्तरण नीति के विरुद्ध जारी स्थानान्तरण आदेश के संबंध में एक प्रकोष्ठ गठित करने का निर्देश दिया है. तदनुसार प्रकोष्ठ गठित किया गया है.

न्यायालय के इस आदेश का महत्वपूर्ण अंश का उद्धरण निम्नलिखित अनुसार है:—

"Where it is found that the transfers have been effected in wilful disregard of the policy of the State Government, disciplinary action will be initiated against the officers who violate the norms laid down by the government"

तदनुसार कृपया सुनिश्चित करें कि भविष्य में कोई भी स्थानान्तरण आदेश स्थानान्तरण नीति के विरुद्ध जारी न किया जावें.

प्रशासकीय विभाग अपने अधीनस्थ समस्त विभागाध्यक्षों को उक्त निर्णय से अवगत कराने का कष्ट करें.

हस्ता./-

( एस. एस. वानखड़े )  
सचिव,  
मध्यप्रदेश शासन,  
सामान्य प्रशासन विभाग.

**DY. ADVOCATE  
GENERAL**

MADHYA PRADESH



D.O. No. ....

**OFFICE OF THE ADVOCATE GENERAL  
MADHYA PRADESH, JABALPUR**

Phone : (O) 320185, 320740

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Dated : August 4, 2004

To,

The Chief Secretary,  
Govt. of M.P.,  
Mantralaya,  
Bhopal.

**Sub : Evolving of Mechanism for consideration of transfers in violation of transfer policy.**

A writ petition No. 5260/04 was filed by Dr. Jagat Singh Parihar challenging his transfer order. Same was listed before the Hon'ble Court. A question was raised whether transfer policy has been issued on 31-1-2004 would be sustained in law. After detailed hearing of the parties, Hon'ble Court has directed that some State Level Committee (Mechanism) should be created by the Govt. of M. P. so as to carry out scrutiny of transfers of officers/employees of State of M. P. who have any grievance and have filed representation against their transfers. Such representations should be decided within a period of 30 days and Chief Secretary or the Committee constituted should have power to pass interim order even for staying such transfer order or maintaining status quo. I am enclosing copy of the judgment delivered by this Hon'ble Court on 3-8-2004. The undersigned has been directed to fax this letter and also judgment of Hon'ble Court passed in WP 5260/04.

You are therefore requested to do the needful and carry out mandate issued by the Hon'ble Court. Presently Hon'ble Advocate General is out of station and this judgment will be brought to his notice also when he returns. Separate communication of the Hon'ble Advocate General will follow this later.

**(P. N. DUBEY)**  
**Dy. Advocate General**

W.P. (S) No. 5260/2004  
Dr. Jagat Singh Parihar

Vs.  
State of M. P. & 2 others

3-8-2004

Petitioner by Shri Manikant Sharma.

Advocate,

State by Shri P. N. Dubey, Deputy Advocate General.

This is a writ petition under Articles 226 and 227 of the Constitution of India challenging the transfer other.

2. Arguments heard. This Court is flooded with the petitions of the Government officers and employees for cancellation or stay of transfer orders. It is well settled through a series of the decisions of the Supreme Court that the Courts can interfere when the transfer is (a) malafide, (b) arbitrary, (c) in violation of the statutory provisions or (d) when it has been passed for extraneous reasons. In a large number of petitions it is demonstrated that the transfer is in disregard of the "transfer policy" of the Government. In such cases the grievances should be redressed at the administrative level. The transfer policy is framed by the Government at its highest level and therefore it must be followed by the departments and their officers. They must implement the professed norms of the Government in letter and spirit. In N. K. Singh Vs. Union of India (1994) 6 SCC 98 the Supreme Court remarked "the only realistic approach is to leave it to the wisdom of hierarchical superiors to make the decision". In Bhaskar Vs. State of West Bengal AIR 1991 SC 532 it has been held that in case the transfer order is in violation of executive instructions the affected party should approach the "higher authorities". It is, therefore, directed that the Chief Secretary of the Government of Madhya Pradesh will immediately constitute a cell in his own office or make some other arrangement to deal with such cases. He will have the power to stay or cancel the transfer orders if these are found to have been issued in violation of the Government policy. He will also have the power to restore status-quo-ante. The officers and the employees who feel that their transfers are against the provisions in the transfer policy may make representations directly to the Chief Secretary and these will be duly considered by the cell functioning under him. The representations will be disposed of within a month with brief reasons either for rejecting them or allowing them. Where it is found that the transfers have been effected in wilful disregard of the policy of the State Government, disciplinary action will be initiated against the officers who violate the norms laid down by the Government.

3. A Copy of this order be communicated to the Chief Secretary through FAX immediately. The Advocate General also will see that some mechanism is evolved to provide administrative justice to the aggrieved persons.

4. In the present case a copy of the writ petition which has been supplied to the office of the Advocate General will be treated as representations of the petitioner and it will be decided in light of the directions given above.

(S. P. KHARE)  
Judge.