



2026:CGHC:10663-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WA No. 201 of 2026**

Dipti Mandavi D/o Shri Durga Prasad Mandavi Aged About 33 Years At Present Posted And Working As Chief Executive Officer, Janpad Panchayat Berla, District Bemetara (C.G.) (Wrongly Written As Currently Posted As Assistant Project Officer, Jila Panchayat Bemetara (C.G.)

... Appellant(s)**versus**

1. Shishir Kumar Sharma S/o Late Dr. J.D. Sharma Aged About 60 Years Presently Posted As Block Development Officer, Janpad Panchayat, Berla, District Bemetara (C.G.)
2. State of Chhattisgarh Through- Secretary, Department of Panchayat And Rural Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, District Raipur (C.G.)
3. Under Secretary Chhattisgarh Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District- Raipur (C.G.)
4. Incharge Chief Executive Officer Janpad Panchayat, Berla, District Bemetara (C.G.)

5. Incharge Assistant Project Officer Jila Panchayat Bemetara, District Bemetara (C.G.)
6. Election Commission Of India Through Its Chief Electoral Officer, D.K.S. Bhawan, Old Mantralaya Premises Indrawati Block, Shashti Chowk, Raipur, District Raipur (C.G.)

...Respondent(s)

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Raghvendra Pradhan, Advocate.
For Respondent No. 1	:	Mr. Pankaj Singh, Advocate.
For Respondent/State	:	Mr. Praveen Das, Additional Advocate General.
For Respondent No. 6	:	Mr. Rakesh Kumar Jha, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

02.03.2026

1. Heard Mr. Raghvendra Pradhan, learned counsel for the appellant. Also heard Mr. Pankaj Singh, learned counsel, appearing for respondent No. 1, Mr. Praveen Das, learned Additional Advocate General, appearing for the State and Mr. Rakesh Kumar Jha, learned counsel, appearing for respondent No. 6.
2. The present intra-Court appeal has been preferred by the appellant/respondent No. 5 challenging the order dated **05.02.2026**

passed by the learned Single Judge in **WPS No. 255 of 2026** (*Shishir Kumar Sharma vs. State of Chhattisgarh & Others*), whereby the writ petition filed by respondent No. 1/writ petitioner herein came to be allowed.

3. Learned counsel for the appellant submits that respondent No.1/writ petitioner is an employee of the Panchayat and Rural Development Department, State of Chhattisgarh, substantively holding the post of Block Development Officer, Janpad Panchayat Berla, District Bemetara. He was also assigned the additional charge of In-charge Chief Executive Officer, Janpad Panchayat Berla. By order dated 24.10.2024, he was transferred from Janpad Panchayat Khairagarh, District Khairagarh–Chhuikhadan–Gandai to Janpad Panchayat Berla, District Bemetara as In-charge Chief Executive Officer and continued to discharge his duties there. Subsequently, by order dated 16.12.2025, he was transferred to Zila Panchayat Bemetara as In-charge Assistant Project Officer. He further submitted that respondent No. 1 challenged the aforesaid transfer order on the ground that it was violative of Section 13CC of the Representation of the People Act, 1950 (hereinafter referred to as “the Act of 1950”). He contended that by order dated 28.11.2025 issued by the Collector-cum-District Election Officer, Bemetara, he had been appointed as Additional Assistant Electoral Registration Officer and was engaged in the Special Intensive Revision (SIR) of electoral rolls. According to him, once deputed for revision of electoral rolls, the State Government lacked jurisdiction to transfer him without prior permission of the Election Commission. Reliance was also

placed upon the communication dated 27.10.2025 issued by the Chief Electoral Officer, Chhattisgarh to the Chief Secretary, advising that officers engaged in SIR work should not be transferred during the revision period without prior approval of the Election Commission of India. Respondent No. 1 further contended that he had been subjected to frequent transfers and that the impugned transfer order was without jurisdiction and void ab initio. In support of his submission, reliance was placed on the decision of the Hon'ble Supreme Court in **Jagmittar Sain Bhagat v. Health Services, Haryana**, reported in **(2013) 10 SCC 136**. The writ petition was heard on 05.02.2026, and the learned Single Judge allowed the petition and set aside the transfer order dated 16.12.2025. Aggrieved thereby, the present writ appeal has been preferred.

4. It is further submits by the learned counsel for the appellant that by transfer order dated 16.12.2025, respondent No. 1 was transferred from Janpad Panchayat Berla, District Bemetara to the office of Assistant Project Officer, Zila Panchayat Bemetara, and the appellant was simultaneously transferred from Zila Panchayat Bemetara to Janpad Panchayat Berla in his place. The order was fully implemented. Respondent No. 1 was relieved, and the appellant joined at Janpad Panchayat Berla and assumed charge. Digital signatures in official records, including status reports and the last pay certificate, were updated to reflect the change in posting. He further submitted that the appellant was duly entrusted with the charge of Electoral Registration Officer/Assistant Electoral Registration Officer by the Election

Commission and was successfully carrying out the SIR work at the new place of posting. The responsibility relating to revision of electoral rolls was effectively handed over to the appellant, and the work of the Election Commission was being conducted smoothly. The transfer order had thus been completely acted upon.

5. Learned counsel for the appellant contends that once a transfer order has been executed and both officers have assumed charge at their respective new postings, the same ought not to be interfered with, particularly when administrative arrangements have been finalized pursuant thereto. It is submitted that this aspect was specifically urged before the learned Single Judge but was not properly appreciated. He also submitted that there was delay on the part of respondent No. 1 in challenging the transfer order. According to the appellant, no cogent or satisfactory explanation for such delay was furnished in paragraph 7 of the writ petition, and the explanation offered did not justify the belated approach to the Court. On the aforesaid grounds, it is contended that the order passed by the learned Single Judge setting aside the transfer order dated 16.12.2025 deserves to be interfered with and the transfer order ought to be upheld.

6. Per contra, learned counsel for respondent No. 1, learned State counsel, and learned counsel appearing for respondent No. 6 supported the impugned order. It is submitted that the learned Single Judge, upon due consideration of the material on record and the statutory provisions governing the field, rightly allowed the writ petition and that no

interference is warranted in the intra-Court appeal.

7. We have heard learned counsel for the parties at length and have perused the material available on record.

8. The principal question that arises for consideration is whether the State Government could have issued the impugned transfer order in respect of an employee engaged in SIR work under the directives of the Election Commission of India, and whether such transfer could have been effected in view of the mandate contained in Section 13CC of the Act of 1950 without obtaining prior consent of the Election Commission.

9. It is not in dispute that the Chief Electoral Officer, Chhattisgarh, by communication dated 27.10.2025 addressed to the Chief Secretary, clearly stated that officers and officials engaged in SIR work would remain under the control, superintendence, and discipline of the Election Commission in terms of Section 13CC of the Act of 1950. The said communication specifically requested that officers functioning as Roll Observer, District Electoral Officer, Deputy District Electoral Officer, Electoral Registration Officer, Assistant Electoral Registration Officer, Booth Level Officer Supervisor, and Booth Level Officer should not be transferred during the SIR period without prior permission of the Election Commission of India. The Chief Secretary marked the said communication with an endorsement that suitable instructions be issued.

10. Section 13CC of the Act of 1950 provides that any officer or staff employed in connection with the preparation, revision, and correction of

electoral rolls shall be deemed to be on deputation to the Election Commission during the period of such employment and shall be subject to its control, superintendence, and discipline. The provision, being part of a Central enactment, is binding and must be given full effect.

11. In the present case, by order dated 28.11.2025, respondent No. 1 was appointed as Additional Assistant Electoral Registration Officer and was engaged in SIR work relating to revision of electoral rolls. From the date of such engagement, he stood deemed to be on deputation to the Election Commission by virtue of Section 13CC. Consequently, during the subsistence of such deputation, he was subject to the control and superintendence of the Election Commission.

12. The record further reveals that upon learning of the transfer of officers engaged in SIR work, the Chief Electoral Officer addressed a communication requesting cancellation of the transfer order dated 16.12.2025. There is nothing on record to indicate that the State Government raised any objection to the authority of the Chief Electoral Officer or to the applicability of Section 13CC.

13. The constitutional scheme under Article 324 vests the superintendence, direction, and control of elections in the Election Commission of India. Free and fair elections form part of the basic structure of the Constitution, and effective control over officers engaged in electoral work is integral to the discharge of the Commission's constitutional mandate. The Full Bench of the Patna High Court in ***Kanhaiya Prasad Sinha v. Union of India***, reported in ***AIR 1990 Pat***

189, has emphasized that the State Government is constitutionally obliged to respect and comply with the lawful directions issued by the Election Commission.

14. In view of the statutory mandate under Section 13CC and the constitutional position under Article 324, the transfer of an officer engaged in SIR work without obtaining prior approval of the Election Commission cannot be sustained. The plea that the transfer order had already been implemented does not cure the inherent lack of jurisdiction. An order passed in contravention of a statutory mandate cannot be validated merely because it has been acted upon.

15. As regards the contention of delay, the writ petition was filed within a reasonable period, and in any event, when the impugned action is shown to be without jurisdiction and contrary to a statutory provision, technical objections relating to delay cannot defeat substantive justice.

16. The learned Single Judge, upon due consideration of the statutory provisions, the communications issued by the Chief Electoral Officer, and the constitutional mandate governing electoral administration, rightly concluded that the transfer of respondent No. 1 during his engagement in SIR work was unsustainable in law.

17. We find no infirmity, illegality, or perversity in the reasoning or conclusion recorded by the learned Single Judge warranting interference in this intra-Court appeal.

18. For the foregoing reasons, the writ appeal is devoid of merit and is accordingly **dismissed**. The order passed by the learned Single Judge

setting aside the transfer order dated 16.12.2025, insofar as it relates to respondent No. 1, is affirmed. No order as to costs.

**Sd/-
(Ravindra Kumar Agrawal)
Judge**

**Sd/-
(Ramesh Sinha)
Chief Justice**

Brijmohan