

Court No. - 5

Case :- WRIT - A No. - 12090 of 2024

Petitioner :- Ashish Kumar Verma And 4 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Rural Deve. Deptt. Lko And 4 Others

Counsel for Petitioner :- Ajay Madhavan

Counsel for Respondent :- C.S.C., Ram Kumar Singh

Hon'ble Abdul Moin, J.

1. Heard learned counsel for the petitioners, Dr Udai Veer Singh, learned Additional Chief Standing Counsel for the State-respondents No.1, 2 & 5 and Ms Pallavi Singh holding brief of Shri Ram Kumar Singh, learned counsel appearing for respondents No.3 & 4.

2. With the consent of the parties, the matter is being decided finally.

3. Under challenge is the order dated 23.11.2024, a copy of which is Annexure-4 to the petition, passed by respondent No.5 i.e. Deputy Commissioner Self Employment, Ayodhya per which after recording the approval of the District Magistrate dated 21.11.2024, the petitioners have been transferred from one block to the other block within the district.

4. Contention of the learned counsel for the petitioners is that a Government Order dated 23.08.2023, a copy of which is Annexure-2 to the petition, has been issued, per which it has been provided that with respect to outsourced employees working in U.P. State Rural Livelihood Mission, the employees can be transferred in special circumstances after the District Magistrate passes a reasoned and speaking order. Said transfer can be made from one block to the other.

5. Contention is that the transfer order dated 23.11.2024 pertaining to the petitioners has been passed by respondent No.5 with the approval of the District Magistrate as specifically finds mentioned in the said order.

6. The argument is that once the Government Order dated 23.08.2023 specifically directs that a transfer order is to be passed in special circumstances that too by the District Magistrate by means of a reasoned and speaking order consequently there cannot be any occasion for respondent No.5 to have passed an order only with the "approval" of the District Magistrate as recorded in the order impugned and as the District Magistrate has failed to pass any reasoned and speaking order indicating any special circumstance in which the petitioner has been transferred consequently the order impugned is in the teeth of the Government order, which thus vitiates the order impugned.

7. On the other hand, Dr Udai Veer Singh, learned Additional Chief Standing Counsel on the basis of instructions sent by the respondent No.5 dated 17.12.2024, argues that the impugned order of transfer has been passed with the approval of the District Magistrate and thus there is no infirmity in the said order.

8. Having heard learned counsel for the parties and perused the record, it emerges that the petitioners are working on contractual basis in the State Rural Livelihood Mission. As per the Government Order dated 23.08.2023, the said employees can be transferred from one block to the other but sine qua non is that there should be special circumstances and order of transfer should be passed in a reasoned and speaking manner by the District Magistrate.

9. Order impugned in the instant case dated 23.11.2024 indicates that the same has not been passed by the District Magistrate rather has been passed by the Deputy Commissioner, Self Employment, Ayodhya with the approval of the District Magistrate.

10. Once the Government Order dated 23.08.2023 specifically requires the District Magistrate to pass an order that too by a reasoned and speaking order in special circumstances consequently there cannot

be any occasion for any other authority to pass an order with the approval of the District Magistrate meaning thereby that the District Magistrate has failed to indicate any special circumstance and also has failed to pass a reasoned and speaking order as categorically provided in the Government Order dated 23.08.2023. Thus, on this ground alone, the impugned order of transfer dated 23.11.2024 merits to be quashed.

11. Keeping in view the aforesaid discussion, the writ petition is ***allowed***. Order impugned dated 23.11.2024, a copy of which is Annexure-4 to the petition, so far as it pertains to the petitioners is quashed. However, it would be open for the competent authority to pass a fresh order in accordance with law under relevant rules.

Order Date :- 18.12.2024
prateek