

Judgment Reserved on 27.02.2025
Judgment Delivered on 06.03.2025
Neutral Citation No. - 2025:AHC:32900

Court No. - 7

Case :- WRIT - A No. - 2493 of 2025

Petitioner :- Chitra Kumari

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Seemant Singh

Counsel for Respondent :- Archana Singh,C.S.C.

Hon'ble Prakash Padia,J.

1. Heard Shri Seemant Singh, learned counsel for the petitioner. Learned Standing Counsel accepted notice on behalf of Respondent Nos. 1 & 4 and Smt. Archana Singh, learned counsel appearing on behalf of Respondent Nos. 2 & 3 as well as Shri Navin Kumar Sharma, learned counsel appearing on behalf of Respondent No.5.

2. The petitioner has preferred the present writ petition inter-alia with the following prayer:-

"i. Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 21.01.2025 passed by the District Basic Education Officer, Hapur, only to an extent that petitioner has to ensure his relieving from his original school namely Primary School Narayanpur Vaska, Block Dhaulana, District Hapur and ensure his joining on the post of Assistant Teacher in Primary School Asodha No. 2, Block Hapur, District Hapur being contrary to the decision dated 06.02.2024 of District Level Committee headed by Principal, District Institute of Education and Training, Hapur.

ii. Issue a writ, order or direction in the nature of mandamus directing the respondents to restore the services of petitioner as an Assistant Teacher in his original Primary School Narayanpur Vaska, Block Dhaulana, District Hapur after due relieving of petitioner from Primary School Asodha No. 2, Block Hapur, District Hapur in view of decision dated 06.02.2024 of District Level Committee headed by Principal, District Institute of Education and Training, Hapur within stipulated period of time as fixed by this Hon'ble Court."

3. Facts in brief as contained in the writ petition are that the petitioner was initially appointed on the post of Assistant Teacher in Primary School Akauli, Block Ambiapur, District-Budaun on 13.02.2009 since then working regularly and getting her salary. A Government Order was issued by the State Government on 20.01.2023 for mutual intra district transfer of Assistant Teachers working in Primary School and Upper

Primary Schools regulated by U.P. Basic Education Board, Prayagraj. Under Clause 2(14)(5) of the said Government Order provides that the teacher may submit any objection relating to mutual intra district transfer before the District Level Committee.

4. It is argued that petitioner also submitted an application for her mutual transfer pursuant to the aforesaid Government Order. Subsequently the petitioner submitted a representation supported by an affidavit that she is not willing to be relieved from her original Primary School Narayanpur Vaska, Block Dhaulana, District Hapur and as such she does not want to have mutual intra district transfer. The Respondent No. 4 namely District Level Committee headed by Principal, District Institute of Education and Training, District Hapur for the purpose of Mutual Intra District Transfer considered the grievances of the petitioner and a decision was taken in this regard on 06.02.2024 that the petitioner should not be relieved from her original Primary School.

5. The aforesaid decision was duly communicated by the District Basic Education Officer, Hapur/respondent No.3 to Secretary, U.P. Basic Education, Prayagraj vide letter dated 17.01.2025 seeking the Instructions in the matter. Pursuant to the aforesaid, a letter dated 20.01.2025 was written by respondent No.2/Secretary, U.P. Basic Education, Prayagraj to the District Basic Education Officer, Hapur/respondent No.3 stating therein to do needful as per earlier letter dated 17.05.2024 as well as reminder dated 09.07.2024, copy of the letter dated 17.05.2024 is appended at Page 72 of the Paper-book. In the aforesaid letter dated 17.05.2024, direction was given to all the District Basic Education Officers of entire State of U.P. to do needful as per judgement and order passed by this Court dated 24.04.2024 passed in Special Appeal No.325 of 2024 . Pursuant to the aforesaid now a decision has been taken by the respondent No.3 on 21.01.2025 directing the Block Education Officer, Hapur and Block Education Officer, Dhaulana to relieve the petitioner from her original Primary School and the petitioner was directed to submit her joining on the post of Assistant Teacher in the transferred institution. Similarly the Respondent No. 5 namely Vineeta Singh was also relieved from her Original Institution and joined on the transferred institution.

6. Aggrieved against the order dated 21.01.2025, the petitioner has preferred the present writ petition.

7. It is argued that once the decision has been taken by the Committee on 06.02.2024 there was no occasion for the Respondent No. 3 to pass the order dated 21.01.2025.

8. On the other hand, it is argued by Smt. Archana Singh, learned counsel for the Respondent Nos. 2 & 3 that after taking into consideration the report submitted by the District Level Committee, the papers and documents were forwarded by the Respondent No. 3 before the Respondent No. 2 namely Secretary, U.P. Basic Education Board, Prayagraj asking his comments in the matter. Pursuant to the aforesaid, letter dated 20.01.2025 was written by the Respondent No. 2 and pursuant to the aforesaid, decision was taken by the Respondent No. 3 on 21.01.2025 which is absolutely perfect and valid and does not call for any interference by this Court. The letter dated 20.01.2025 was written by the respondent No.2 pursuant to his earlier letter dated 17.05.2024, which was written by him pursuant to the order passed by this Court in Special Appeal No.325 of 2024. The aforesaid letters are not under challenged in the present petition.

9. Smt. Archana Singh, learned counsel also placed reliance upon the judgment and order dated 05.03.2024 passed by the Coordinate Bench of this Court in **Writ A No.3418 of 2024 (Km. Sweta vs. State of U.P. and 2 others)**. She also placed reliance upon the judgment and order dated 24.04.2024 passed in **Special Appeal No. 325 of 2024 (Shubhangi Rastogi vs. State of U.P. and 5 Others)**.

10. It is informed by the counsel appearing on behalf of Respondent No. 5 that her client has already joined the transferred institution and working there, hence it is argued that in case any relief is granted to the petitioner as prayed for in the present writ petition, the Respondent No. 5 will suffer irreparable loss.

11. Heard counsel for the parties and perused the record.

12. From perusal of the record it is clear that the petitioner has submitted her online transfer application pursuant to the Government Order issued by the State Government dated 20.01.2023. Pursuant to the same, an order of transfer has been passed by the authorities and not satisfied with the same, a representation was made by the petitioner before the District Level Committee who submitted its report on 06.02.2024.

13. The aforesaid report was duly forwarded by the Respondent No. 3 before the Respondent No. 2 for his consideration.

Pursuant to the aforesaid, a letter dated 20.01.2025 was written by the Respondent No. 2 and taking into consideration to the same, an order dated 21.01.2025 was passed by the District Basic Education Officer, Hapur/ Respondent no. 3.

14. From perusal of the aforesaid, the Court is of the opinion that once an application for mutual transfer has been submitted by the petitioner with her open eyes and she has transferred from the institution and thereafter respondent no. 5 has transferred in the institution where the petitioner was earlier working and has joined the institution, there was no occasion for the petitioner to approach this Court challenging the decision taken by the authorities transferring her as per her own request. In the case of **Km. Sweta (Supra)**, the Coordinate Bench has already held that the petitioner cannot be allowed to sail on two boats. Order dated 05.03.2024 passed in **Writ A No. 3418 of 2024 (Km. Sweta Vs. State of U.P. and 2 Others)**, reads as follows:-

"1. Heard Sri Manvendra Singh, learned counsel for petitioner and Sri Shrestha Pratap Singh, Advocate holding brief of Mrs. Archana Singh, learned counsel for respondents.

2. Petitioner cannot be allowed to sail on two boats. On one hand, she has taken advantage of transfer policy to apply for mutual transfer which was accepted and now she wants to resile from it by giving excuse, which is not permissible. Once an order has been passed on application for mutual transfer that cannot be withdrawn. There is no circumstance exist to interfere with impugned order.

3. However, petitioner will have liberty to join at transferred place on commencement of new academic session since present academic session is about to end. In case of default, concerned respondent is at liberty to take action against petitioner in accordance with law.

4. With aforesaid observation, the writ petition is disposed of.
"

15. The Special Appeal Bench also affirmed the aforesaid judgment in the case of **Shubhangi Rastogi (Supra)**. Judgment and order dated 24.04.2024 passed in **Special Appeal No. 325 of 2024** reads as follows:-

"1. Heard Shri Santosh Kumar Tiwari, learned counsdl for the petitioner/appellant and Sri Pankaj Rai, learned Additional Chief Standing Counsel for the State.

2. Present special appeal has been preferred assailing the validity of the order dated 12.03.2024 passed by leanrned

Single Judge in Writ-A No.3782of 2024 (Shubhangi Rastogi v. State of U.P. & Ors.) as well as the order dated 05.03.2024 passed by the learned Single Judge in Writ-A No. 3418 of 2024 (Km. Sweta vs. State of U.P. and others). The order dated 05.03.2024 which is quoted as under for ready reference:-

"1. Heard Sri Manvendra Singh, learned counsel for petitioner and Sri Shrestha Pratap Singh, Advocate holding brief of Mrs. Archana Singh, learned counsel for respondents.

2. Petitioner cannot be allowed to sail on two boats. On one hand, she has taken advantage of transfer policy to apply for mutual transfer which was accepted and now she wants to resile from it by giving excuse, which is not permissible. Once an order has been passed on application for mutual transfer that cannot be withdrawn. There is no circumstance exist to interfere with impugned order.

3. However, petitioner will have liberty to join at transferred place on commencement of new academic session since present academic session is about to end. In case of default, concerned respondent is at liberty to take action against petitioner in accordance with law.

4. With aforesaid observation, the writ petition is disposed of."

3. After substantial arguments, the Court declines to interfere with the order passed by the learned Single Judge, which is well considered order under the mutual transfer policy.

4. Learned counsel for the appellant/petitioner states that the present appeal may be dismissed as not pressed.

5. In view of above, the special appeal is, accordingly, dismissed as not pressed. "

16. In view of aforesaid, the Court is of the opinion that order passed by the District Basic Education Officer, Hapur, dated 21.01.2025 does not call for any interference.

17. Accordingly, the writ petition is no force, liable to be dismissed and is hereby **dismissed**.

Order Date :- 06.03.2025
Swati/saqlain