

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2237 OF 2014

Sau. Rajeshri Chandrakantrao Padalwar,
 Age 35 years, Occu.: Service
 as Asst. Teacher,
 Permanent R/o Uday Nagar-2,
 Nanded, Tq. Nanded, District Nanded .. Petitioner

Vs.

- 1] The State of Maharashtra,
 Through Principal Secretary,
 General Administration Department,
 Mantralaya, Mumbai - 32
- 2] Chief Executive Officer,
 Zilla Parishad, Nanded
- 3] Education Officer (Primary),
 Zilla Parishad, Nanded
- 4] Block Education Officer,
 Panchayat Samiti, Ardhapur,
 Tq. Ardharapur, Dist. Nanded
- 5] Head Master,
 Zilla Parishad Primary School,
 Belsar, Centre Loni (Bk.)
 Tq. Ardhapur, Dist. Nanded
- 6] Balaji Dhondiba Kusumkar,
 Age 40 years, Occu. Teacher,
 R/o C/o Head Master,
 Zilla Parishad Primary School,
 Belsar, Centre Loni (Bk.)
 Tq. Ardhapur, Dist. Nanded .. Respondents

Mr. S.R. Choukidar, Advocate for petitioner
 Mr. S.B. Pulkundwar, A.G.P. for respondent-State
 Mr. S.M. Kulkarni, Advocate for respondent no.6
 Mr. P.P. Uttarwar, Advocate for respondent nos.2, 3 & 5
 Mr. V.S. Panpatte, Advocate for respondent no.4

**CORAM : S.S. SHINDE &
M.T. JOSHI, JJ.
DATE : 10/09/2015**

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. With consent of both sides, heard finally.

2. This petition is filed with following prayer :

"D) Rule may be made absolute and by allowing this petition following reliefs be granted.

i) Quash and set aside the communication dated 03/03/2014.

ii) Hold and declare that respondent No.4 is under legal obligation to follow the transfer order dated 25th February 2014 and quash and set aside communication dated 03/03/2014 passed by respondent no.4 and relieving order dated 06/03/2014 passed by respondent no.5 and direct the concerned respondents to forthwith implement order dated 25th February 2014 passed by respondent no.2 and allow the petitioner to serve on the post of Teacher on the establishment of Zilla Parishad Primary School, Belsar Kendra Loni (Bk.), Tq. Ardhapur, Dist. Nanded.

iii) Quash and set aside the posting order dated 1st of March 2014 passed by respondent no.4 in favour of respondent No.6 which is reflected in the communication dated 03/03/2014."

3. Learned counsel appearing for the petitioner agitated only one point i.e. the Block Development Officer, Panchayat Samiti, Ardhapur, District - Nanded had no jurisdiction / empowerment to transfer the teachers from one place to another.

. The petition deserves to be allowed on this count alone.

4. On the other hand, learned counsel appearing for the respondents vehemently opposed the prayers and submit that in case this Court is inclined to allow this writ petition, atleast case of the respondent no.6 may be considered during the annual general transfers to be effected for the next academic year 2016 - 2017.

5. We have heard learned counsel for the petitioner and learned counsel for the respective respondents.

6. Admittedly, there is no power/jurisdiction to the Block Development Officer to transfer teacher from one place to another place. In that view of the

matter, the impugned transfer order is without jurisdiction. Hence, the writ petition deserves to be allowed. Accordingly, the writ petition is allowed in terms of prayer clause (D).

7. It is needless to observe that if the respondent no.6 approaches Respondent no.2 - the Chief Executive Officer, Zilla Parishad, Nanded, in the month of May/June or at the time of general transfers, requesting for transfer at the convenient place, prayer of respondent no.6 may be considered sympathetically.

8. So far as prayer of the petitioner for his salary for the period in which he was not allowed to join the duties, the Chief Executive Officer, Zilla Parishad, Nanded to consider the said prayer and take the decision in accordance with the rules.

9. Rule made absolute in the above terms.

[M.T. JOSHI]
JUDGE

[S.S. SHINDE]
JUDGE

arp/