

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

APPELLATE SIDE JURISDICTION

WRIT PETITION NO.: 10550 OF 2014

Sangeeta D/o Bankat Chate,

Age: 37 years, Occ.: Service,
R/o Mukundraj Colony, Behind
Police Station, Ambajogai.
Taluka Ambajogai, Dist. Beed.

... **PETITIONER.**

VERSUS

1. State of Maharashtra.

Through its Secretary,
School Education and Sports
Department, Mantralaya,
Mumbai.

2. The Chief Executive officer,

Zilla Parishad, Beed.

... **RESPONDENTS**

Mr. S. S. Thombre, Advocate for the Petitioner.

Mr. K. S. Patil, A.P.P. for Respondent No.1.

Mr. N. L. Jadhav, Advocate for Respondent No.2.

CORAM:- T. V. NALAWADE &

SMT. I. K. JAIN, JJ.

DATED:- 24th MARCH, 2015.

JUDGMENT [PER SMT.I.K.JAIN, J.]:

. Rule. Rule made returnable forthwith. By consent
heard both the sides for final disposal.

2. By this petition, filed under Article 226 of the Constitution of India, petitioner has challenged order dated 14th November, 2014 issued by Respondent No.2 transferring petitioner from Zilla Parishad Girls School, Ambajogai to office of Block Education Officer, Majalgaon, Taluka Majalgaon, district Beed. Petitioner was appointed as Assistant Teacher on 2nd September, 1997 at Zilla Parishad Primary School, Pus. In 2008 she was transferred to Ambajogai.

3. It is the case of Petitioner that on 11th August, 2014 Crime No.164 of 2014 was registered against her and others with Police Station, Ambajogai for the offences under sections 395, 452, 427 of the Indian Penal Code. Petitioner was arrested on 11th August, 2014. She was in P.C.R. till 15th August, 2014. Thereafter she was remanded to M.C.R. Since petitioner was behind bars for more than 48 hours, she was suspended as per Rule 3 (2) of the Maharashtra Civil Services (Conduct) Rules, 1964 vide order dated 23rd September, 2014 issued by Respondent No.2.

4. On 20th October, 2014 petitioner submitted an application to Respondent No.2 stating that since she is released on bail in above crime, she be permitted to join her duty. By the order dated 29th October, 2014 her suspension was revoked and she was reinstated in service subject to the result of Departmental Enquiry proposed against her and decision in criminal case.

5. According to petitioner she is Vice President of Latur - Aurangabad Division of Maharashtra State Caste - Tribe Employees Welfare Association, Pune. In the capacity of Vice President she agitated the problems of surplus teachers. Respondent No.2 got annoyed. She submitted that due to dispute and political rivalry amongst the members, some office bearers of association filed complaints against petitioner. Respondent No.2 then issued impugned order of transfer.

6. Petitioner submits that her husband is working as an Assistant Teacher at Zilla Parishad Centre Primary School, Ravivar Peth, Ambajogai. The distance between

Ambajogai and Majalgaon is about 100 kms. It is her contention that transfer is against policy of government that husband and wife should be posted within the radius of 30 kms. Petitioner proceeded on casual leave on 14th November, 2014 and since 15th November, 2014 she is on medical leave.

7. It is contended by petitioner that in February, 2014 she met with an accident. That time her leg was fractured and she had undergone major operation. She submits that it is not possible for her to travel more than 200 kms. distance every day. Petitioner is having two children. Her daughter is studying in 10th standard at Nutan Kanya Vidyalaya, Ambajogai and her son is studying in 5th standard at Yogeshwari Vidyalaya, Ambajogai. It is contended that the impugned order of transfer is mid-term, unjust, illegal, against the provisions of law and needs to be quashed and set aside.

8. On behalf of Respondent No.2 affidavit in reply is filed by Vitthal S/o Namdeo Rathod, Deputy Education Officer (Primary) Education Department, Zilla Parishad,

Beed. Respondent No.2 submits that petitioner was wrongly restored in service at her original place at Kanya Shala, Ambajogai. In fact, she should have been posted in another Taluka as per Zilla Parishad District Service (Discipline and Appeal) Rules, 1964 so that the departmental enquiry should be conducted smoothly. As mistake was realized on 13th November, 2014 resolution No.151 came to be passed for transfer of petitioner out of Taluka. It is contended that there was no vacant post of primary Graduate teacher in Ambajogai and nearby Taluka Parali, Kaij and Dharur. Therefore she was transferred in the office of Block Education Officer, Majalgaon after Standing Committee passed the resolution on 13th November, 2014.

9. The main grievances of petitioner are based on couple arrangement, education of children and her own physical inability to travel from Ambajogai to Majalgaon.

10. So far as couple arrangement is concerned learned counsel for Respondent No.2 submitted that it is not the right of petitioner and in the given facts and

circumstances the same cannot be considered. To substantiate his contention he relied upon ***Union of India and others V/s S. L. Abbas***¹ in which it has been held by the Honourable Supreme Court:

“While ordering the transfer of Government employee, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject, but the said guidelines do not confer upon the Government employee a legally enforceable right. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the Court cannot interfere with it.”

In the present case the administrative needs and policy decision taken by standing committee do not permit the posting of petitioner and her husband to one place. Petitioner is facing criminal prosecution and departmental action as well. In this view of the matter we do not find that the grounds raised in petition including couple

¹ AIR 1993 Supreme Court 2444

arrangement, education of children and physical inability to travel can be considered to quash the impugned order. The order of transfer appears to us to be bona fide in view of the administrative exigency and so we are not inclined to interfere with the same.

11. In the result, petition is dismissed. Rule is discharged.

[SMT. I. K. JAIN, J]

Dated:24/03/2015.
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[T. V. NALAWADE, J.]