

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 6619 OF 2015

Maharashtra Academy of Engineering
and Educational Research, Pune & ors. ... Petitioners

v/s

Mrs.Uma Vijaysingh Rajput ... Respondent

Mr.Surel Shah for the petitioners.

Mr.Nitin Kulkarni along with Avinash Belge for the respondent.

CORAM: N.M. JAMDAR, J.

DATED : 2 SEPTEMBER 2015

P.C.:

By this petition, the Petitioners challenge the order passed by the Industrial Court, Pune in Complaint (ULP) No. 162 of 2015, dated 27 May 2015, granting interim relief to the Respondent by staying the order of transfer of the Respondent dated 24 April 2015.

2 Mr.Surel Shah, learned counsel for the Petitioners submitted that the Industrial Court has not appreciated the settled legal position that interference in a transfer order is limited and it is the right of the management to transfer an employee on administrative grounds. He submitted that the Respondent was never appointed

as a Librarian and she was working as a Junior Clerk and her transfer from Pune to Nanded, where the Petitioners have another institution, as a Junior Clerk, is purely administrative. He also submitted that the theory of change in service condition is not pleaded by the Respondent.

3 The case of the Petitioners that the Respondent was never appointed as a Librarian, is contradicted by the letters issued by the Petitioners themselves to the Education Department, wherein the Respondent is shown to be working as a Librarian and also approval of the Respondent on that post is sought. What is the efficacy of these documents will be a matter of trial. At this stage, the view taken by the Tribunal that, *prima facie*, the Respondent was working as a Librarian, cannot be termed as perverse.

4 It is an admitted position that the Institute where the Respondent is transferred there is no post of Librarian. If *prima facie* the Tribunal came to the conclusion that the Respondent was working as a Librarian, then transferring her as a Junior Clerk would amount to changing the nature of job. This *prima facie* observation also cannot be termed as perverse. At this stage, nothing is shown as to why a Librarian working in a Library needs to be transferred as a Junior Clerk in a school where there is no post of Librarian. The case pleaded by the Respondent is that the transfer is by way of victimization.

5 In the circumstances, the discretion exercised by the Industrial Court cannot be termed as perverse.

6 The writ petition is rejected.

(N. M. JAMDAR, J.)