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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7058 OF 2014

Smt. Rajani Lalchand Choudhari,
Age 48 years, Occ. Service as Primary Teacher
working at Nalshet, Taluka Peth, Dist. Nashik ... Petitioner

Versus

1. Zilha Parishad Nashik,
through Chief Executive Officer,
2. The Head Master,
ZP School, Nalshet, Tal. Peth,
Dist. Nashik
through Chief Executive Officer,
Zilla Parishad Nashik.
3. The State of Maharashtra,
through the Rural Development Dept,
to be served through G.P. (A.S.)
Bombay High Court.
4. The Divisional Commissioner,
Nashik Division, Nashik ... Respondents

Mr. Anilkukar Patil for the petitioner.

Mr. A.R. Kapadnis for respondent no. 1.

Mrs. M.S. Bane, A.G.P. For respondent nos. 3 and 4.

CORAM : SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG, JJ.
DATED : JANUARY 20, 2015

ORAL JUDGMENT (Per Smt. Vasanti A. Naik,J.):

Rule. Rule made returnable forthwith. The Petition is heard finally with the consent of the learned counsel for the parties.

By this petition, the petitioner impugns the order of the Chief Executive Officer, Zilla Parishad, Nashik dated 15th May, 2013 transferring the petitioner from Dongargaon to Nalshet, Taluka Peth. The Petitioner also challenges the order of the Divisional Commissioner Nashik Division, Nashik dated 19th May, 2014 rejecting the representation filed by the petitioner and confirming the order of the Chief Executive Officer dated 15th May, 2013.

It is the case of the petitioner that the petitioner has been transferred at a distance of 180 kms from Dongargaon to Nalshet by the impugned order dated 15th May, 2013. It is stated that the daughters of the petitioner are of marriageable age and the husband of the petitioner is stationed at a distance of 130 kms from Nalshet where the petitioner is transferred. It is stated that the petitioner is suffering from a heart ailment and hence the petitioner was not liable to be transferred to Nalshet which is at a distance of 180 kms from Dongargaon. According to the petitioner, though this court had by an order dated 4th April, 2014 in Writ Petition No. 3278 of 2014 directed the respondents to consider the representation made by the petitioner, the respondents have not given any thought to the same. It is stated that the order of the Divisional Commissioner, Nashik Division Nashik dated 19th May, 2014 is sans reasons and is liable to be set aside.

The learned counsel for the Zilla Parishad and the learned A.G.P. For the State Government and the Divisional Commissioner supported the orders of the authorities and submitted that the action to transfer the petitioner has been initiated in pursuance of the orders passed in Suo Moto Public Interest Litigation No. 3218 of 2010. It is stated that the petitioner has not worked in the tribal area and therefore she was transferred to Nalshet. It is stated that the transfer of the petitioner is made after

considering the Government resolution dated 18th April, 2013.

On hearing the learned counsel for the parties, it appears that the Divisional Commissioner, Nashik Division, Nashik has not recorded any reasons whatsoever while rejecting the representation-appeal filed by the petitioner by the impugned order dated 19th May, 2014. The Petitioner had recorded her protest to the transfer to Nalshet on various grounds mentioned in the representation. None of the grounds have been considered by the Divisional Commissioner while deciding the representation-appeal of the petitioner. It was necessary for the Divisional Commissioner to have recorded some reasons while dismissing the representation-appeal.

For the reasons aforesaid, the writ petition is partly allowed and the order of the Divisional Commissioner dated 19th May, 2014 is quashed and set aside. The matter is remanded to the Divisional Commissioner for considering the representation-appeal of the petitioner afresh on merits. The Chief Executive Officer of the Zilla Parishad should also consider the case of the petitioner sympathetically. The Petitioner undertakes to remain present before the Divisional Commissioner on 2nd February, 2015. Rule is made absolute in the aforesaid terms with no order as to costs.

(C.V. BHADANG,J.)

(VASANTI A.NAIK, J.)