

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4322 OF 2014

[Ganpat Ramaji Tidke and one .vs. The State of Maharashtra and others]

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri P.S. Patil, counsel for the petitioners,
 Shri N.R. Patil, AGP for the respondent no.1,
 Shri S.D. Chopde, counsel for the respondent nos.2 and 3.

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATED : JUNE 19, 2015.

By this petition, the petitioners challenge the order, dated 26.7.2014 passed by the respondent-Zilla Parishad, Amravati transferring the petitioners from Panchayat Samiti Chandur Railway and Panchayat Samiti Nandgaon Khandeshwar to Panchayat Samiti Dharni.

The petitioners were working as Head Masters in the Panchayat Samiti Chandur Railway and Panchayat Samiti Nandgaon Khandeshwar when, by the impugned order, they were transferred to Panchayat Samiti Dharni. According to the petitioners, the petitioner no.1 is physically challenged and the petitioner no.2 is suffering from a heart ailment. It is the case of the petitioner no.1 that he could not have been transferred, as in view of the Government Resolution, a physically challenged person can not be transferred. According to the petitioner no.2, since he was transferred from a tribal area to Panchayat Samiti Nandgaon Khandeshwar, by the order dated 16.6.2014, the petitioner no.2 could not have been transferred to Panchayat Samiti Dharni, within a period of 10 days, specially the petitioner no.2 suffers from a heart ailment.

The respondent-Zilla Parishad has filed an affidavit-in-reply. It is stated in the affidavit-in-reply that the petitioners were

called by the respondent-Zilla Parishad on 26.7.2014 for conciliation and an opportunity was given to the petitioners to select the place of posting as per the availability. It is stated that 67 employees had participated in the conciliation proceedings and the petitioners had agreed to their transfer to the place of their posting and absorption. A copy of the record of the conciliation proceedings is annexed to the affidavit-in-reply to show that the petitioners had agreed for their transfer to Panchayat Samiti Dharni on 26.7.2014. It is stated that the petitioners are estopped from challenging their transfer-absorption after having consented for their transfer to the schools in the Panchayat Samiti Dharni.

Shri Patil, the learned counsel for the petitioner states in reply that the petitioners were forced to sign on the proceedings maintained by the respondent-Zilla Parishad as they were threatened that they would not be paid their salary, if they do not agree for their transfer. It is stated that the signatures of the petitioners have been secured forcibly and, therefore, this court may ignore the documents annexed by the respondent-Zilla Parishad to the affidavit-in-reply.

On hearing the learned counsel for the parties and on a perusal of the documents annexed to the affidavit-in-reply filed on behalf of the respondent-Zilla Parishad, it appears that the relief sought by the petitioners cannot be granted. In the petition, it is not averred by the petitioners that their signatures were forcibly secured by the respondent-Zilla Parishad on the proceedings/sheet maintained by the Zilla Parishad, 26.7.2014. The petitioners, who are working as Head Masters in the schools of the Zilla Parishad, cannot be heard to say that their signatures were forcibly secured on the documents thereby showing their willingness to be transferred to the Panchayat Samiti Dharni. Even assuming that the petitioners were so threatened, the petitioners ought to have approached this court without signing the documents. Now, in view of the admitted signatures of the petitioners on the documents, it would not be possible for this court to hold, in exercise of the writ jurisdiction that the petitioners were threatened by the authorities that they would not be paid their salary if they do not sign on the documents showing their willingness for transfer.

Moreover, we do not find such averment in the petition. It is rightly submitted on behalf of the respondent-Zilla Parishad that the petitioners having signed on the documents showing their willingness for transfer at the places in Panchayat Samiti Dharni, the petitioners are estopped from challenging the orders of transfer.

In view of the aforesaid, the writ petition is dismissed, with no order as to costs.

JUDGE

JUDGE

Gulande