

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

WRIT PETITION NO.6182 OF 2013

**Ramdas S/o Sampatrao Babhulkar vs. Zilla Parishad, Nagpur, thr its
CEO and ors**

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

Court's or Judge's order

Shri Anand Parchure, counsel for the petitioner.
Shri L.B. Bobade, counsel for R-1 & 2.
Shri V.N. Patre, counsel for R-4.

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.
DATE : JANUARY 15, 2015.

Heard.

The petitioner was transferred as Assistant Teacher to Sihora in the year 2008 upon request. The petitioner sought posting as his wife also has been working at Mehendi which is the place near Sihora at a distance of five kilometers.

Respondent No.4 has been transferred to Sihora on 30.9.2011. After her joining, the petitioner was declared as surplus and the transferred to a place which is about fifty kilometers away.

.....2/-

Shri Anand Parchure, learned counsel for the petitioner, submits that since there was no vacancy at Sihora, respondent No.4 could not have been transferred. He further submits that respondent No.4 made a request and her request could not have been honoured because there was no vacancy.

Shri L.N. Bobade, learned counsel for respondent Nos.1 and 2 – Zilla Parishad, submits that the request of respondent No.4 for transfer at Sihora has been looked into and she was allowed to join at Sihora. The petitioner has been declared as surplus in subsequent academic year.

Shri V.N. Patre, learned counsel for respondent No.4, submits that respondent No.4 had completed period of five years at Varada and, therefore, she was due for transfer. During counselling, post at Sihora was vacant and she opted for it. The transfer order of the petitioner is dated 31.10.2012. Against that order, Writ Petition No.2528 of 2013 was preferred and the same was disposed of on

3.7.2013. The petitioner was given leave to make representation. That representation was rejected and communicated to the petitioner on 2.9.2013.

After considering the facts, we find that the petitioner has completed about five years and has been transferred to a place which is about fifty kilometers away. The Rules of the Zilla Parishad stipulate that the person who has completed maximum stay at a station is to be transferred first. By following that Rule, the petitioner appears to have been sent out.

In this situation, the discretion available to such employer in the matter of transfer, cannot be overlooked. There are no allegations of malafides in this case.

Taking overall view of the matter, we allow request of learned counsel of the petitioner and grant him opportunity to make suitable representation when regular transfers are considered by the employer and with direction to the employer to look into such representation, in accordance with law, we

dispose of the present writ petition with no
order as to costs.

JUDGE

JUDGE

!! BRW !!