

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

WRIT PETITION NO. 4886 OF 2015

Maniyar Mohd. Khaja Mohd. Ismail
and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 4887 OF 2015

Sanjay Ramrao Nikwade and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 4888 OF 2015

Pandurang S/o Marotrao Dharne
and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 4889 OF 2015

Rahulkumar S/o Balajirao Meherkar
and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 4890 OF 2015

Anjali Iranna Atkalikar and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH**WRIT PETITION NO. 4891 OF 2015**

Shaikh Khayyum Samadsaab and another.. Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH**WRIT PETITION NO. 4892 OF 2015**

Madhav Gangadharrao Bodke and another.. Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH**WRIT PETITION NO. 4893 OF 2015**

Vishwanath S/o Sangram Patil
and another ..

Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH**WRIT PETITION NO. 4894 OF 2015**

Premala Murlidharrao Shinde and another.. Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH**WRIT PETITION NO. 4955 OF 2015**

Nanda Nagnna Totawar and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri D. M. Shinde, Advocate for Petitioners in all matters.

Shri V. S. Badakh, A.G.P. for Respondent Nos. 1 to 3 in all matters.

Shri R. K. Ingole, Advocate for Respondent Nos. 4 and 5 in all matters.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.**

DATE : 01ST SEPTEMBER, 2016.

PER COURT :

. Present writ petitions are filed challenging the orders passed by the authority cancelling transfer orders. The petitioners are Zilla Parishad Assistant Teachers. The petitioners rely on the order dated 21.02.2014 thereby transferring the petitioners. According to Mr. Shinde, the learned counsel for petitioners, the transfer of petitioners were either on account of couple convenience, mutual transfers. The same were pursuant to the relevant Government Resolution. All these petitioners joined at the transferred places and after lapse of fourteen months, the said transfer orders are cancelled. The orders cancelling the transfers are without notice to petitioners and without hearing petitioners. The petitioners were paid salaries for these fourteen months also. No illegality has been committed while issuing transfer orders. In majority of matters before this Court the transfers are on account of mutual

transfers.

2. Mr. Ingole, the learned counsel for respondent Nos. 4 and 5 submits that, in fact, those transfer orders relied by petitioners are not issued by observing any procedure. The same are also not issued by the competent authority. When this fact was realized, the transfer orders are cancelled. During the pendency of this writ petition this Court directed the respondents to take hearing and pass orders afresh. The respondent Nos. 4 and 5 gave hearing to petitioners and after coming to the conclusion that while passing initial transfer orders, the procedure was not at all followed and the person who had issued transfer orders flouted the provisions, rules and the policy. An enquiry has been initiated against him. According to the learned counsel, as the transfer orders itself were against the said norms, the policies and the Rules, the same have been rightly cancelled. Even the defect of not hearing the petitioners has been cured subsequently. The petitioners have been heard and order cancelling the transfers has been confirmed.

3. We have heard the learned Assistant Government Pleader also.

4. Upon hearing the learned counsel for respective parties, it transpires that, initially the Education Officer has issued the

transfer orders based on mutual transfers, couple convenience. The petitioners had joined at their transferred place. They worked on the transferred place. They were paid salary at the transferred place and after lapse of fourteen months orders of transfers are cancelled. After the orders were passed cancelling the transfers of the petitioners, the petitioners approached this Court and this Court granted interim orders in favour of petitioners thereby staying the transfers.

5. It is not disputed that, today also the petitioners are working at their transferred places and discharging their duties at the transferred places. It is also not contention of respondents that, the places at which the petitioners are transfer, the posts are inadmissible. The post are admissible. The contention of respondents is about irregularities in the transfers.

6. Be that as it may, it is more than two and half years, the petitioners are working at the transferred place and by the next academic year they would complete three years. It would not be appropriate to unsettle the petitioners in the midst of the academic year. In the light of that, we need not enter into the merits of the contentions of the parties. It is only on the ground that, now more than two and half years, the petitioners are working at the transferred places, we are setting aside the orders cancelling the transfer of the petitioners and not on merits.

7. The petitioners shall continue to work on transferred places as they are working since 2014. The respondent authorities shall consider the cases of the petitioners at the time of general transfers to be effectuated in the year 2017. The same shall be considered on its own merits, in accordance with policy and the Government Resolutions prevailing. With these observations and directions the writ petitions are disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Sept. 16