

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

WRIT PETITION NO.3789 OF 2016

[Ashish s/o Ruprao Deshmukh and others .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. Kshirsagar, counsel for the petitioners,
Shri V.P. Maldhure, AGP for respondent no.1,
Shri J.B. Kasat, counsel for respondent nos.2 and 3.

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CORAM : SMT. VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : JULY 20, 2016.

By this writ petition, the petitioners challenge the action on the part of the respondent no.2-Chief Executive Officer, Zilla Parishad, Amravati of conducting the counselling proceedings in violation of the policy laid down in the Government Resolution, dated 15.5.2014. The petitioners have sought a direction against the Zilla Parishad to conduct a fresh transfer process by following the policy, as per Government Resolution, dated 15.5.2014.

All the petitioners herein have been transferred from non-tribal areas to tribal areas, as their requisite term in the non-tribal areas was complete. A provisional seniority list of the teachers was published by the Zilla Parishad on 8.6.2016 and objections were called. According to the petitioners, at least ten days time was required for raising the objections, but the time was not granted. It is stated that the counselling process took place on 12.6.2016 and though the petitioners were entitled to secure the knowledge of vacancies that were available two days in advance, the petitioners were informed about the vacant posts only at the time of counselling. It is stated that the policy laid down in the Government Resolution, dated 15.5.2014 was not adhered to. It is stated that the petitioners could not give proper

option for their posting, as they did not have prior notice. It is stated that, after about a week, the petitioners raised their objections before the respondents in regard to the irregularities in the counselling process, but since nothing was done in the matter by the respondents, the present writ petition is filed.

Shri Kasat, the learned counsel appearing on behalf of the Zilla Parishad, supported the action on the part of the Zilla Parishad. It is stated that the provisional seniority list was published on 31.5.2016 and the final seniority list was published on 11.6.2016. It is stated that only 29 objections to the provisional seniority list were received and after deciding them, the final seniority list was published on 11.6.2016. It is stated that after the staff justification was completed by the Deputy Director of Education, Amravati Division, Amravati, the list of surplus teachers was secured. It is stated that after the list of surplus teachers was secured, the vacancies were notified and at the time of counselling only, as per the turn in the seniority list, every teacher was permitted to give the option from the available vacancies. It is stated that firstly the teachers have to be transferred from tribal areas to non-tribal areas, as some of the teachers are posted in the tribal areas for more than ten years and it is high time to transfer them to non-tribal areas. It is stated that only after their options are secured, the teachers, that are posted in non-tribal areas, are required to give their option for their posting in tribal areas. It is stated that the respondent - Zilla Parishad had strictly adhered to the seniority list and permitted every teacher to give his/her option as per the available vacancies. It is stated that the petitioners had not raised any objection whatsoever at the time of counselling and had voluntarily given their option for being posted in the vacancies of their choice. It is stated that belatedly, after eight days, the petitioners filed the objections in regard to the process

of counselling. It is stated that the petitioners are estopped from claiming that the policy of the government is not adhered to during the counselling process.

We find much force in the submission made on behalf of the Zilla Parishad that the petitioners cannot be permitted to now challenge the transfer process-counseling process. The petitioners had, without raising any objection whatsoever at the time of counseling, given their option for being transferred to the places of their choice from amongst the places that were pointed out to them at the time of counselling. Every petitioner has signed the option form and has voluntarily given the consent for being transferred to a particular place of posting. If that be so, the petitioners cannot turn around and challenge the selection/counseling process on the ground that the respondent-Zilla Parishad had not provided the list of places where vacancies were available two days prior to the date of counselling. The petitioners have also not pointed out the prejudice that is caused to the petitioners by the manner in which the counselling was conducted.

Since the petitioners have voluntarily given their option for being transferred to the places to which they are actually transferred by the impugned order, the petition is liable to be dismissed. Hence, we dismiss the writ petition as such, with no order as to costs.

JUDGE

JUDGE

CERTIFICATE

“I certify that this order uploaded is a true and correct copy of original signed order.”

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