

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

**WRIT PETITION NO.4162 OF 2015**

[Dilip Govindrao Nimbhorkar .vs. Chief Executive Officer, Zilla Parishad, Amravati]

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

**CORAM : PRASANNA B. VARALE, J.**  
**DATED : JANUARY 15, 2016.**

Heard Mr. S.N. Gaikwad, the learned counsel for the petitioner and Mr. M.A. Sable, the learned counsel for the respondent.

By the present petition, the petitioner challenges the order dated 4.7.2015 passed by the learned Member, Industrial Court, Amravati. A very short controversy involved in the present petition is that, the petitioner, who is working in the service of the Zilla Parishad, Amravati was transferred from the Health Department, Zilla Parishad, Amravati to Taluka Health Center, Dharni on administrative ground. The said order was passed by the Zilla Parishad on 30.5.2015.

Being aggrieved by the said order, the petitioner filed Complaint before the learned Member, Industrial Court. The learned Member, Industrial Court, by order dated 1.6.2015 granted status quo in favour of the petitioner. The learned Member, Industrial Court, then vacated the order of grant of status quo and the petitioner filed an application under Section 30 (2) of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practice Act for grant of interim relief. The submission before the learned Member, Industrial Court as well as before this Court is the action of the Zilla

Parishad is mala fide as it violate the government circular in respect of transfer policy. It is the submission of the learned counsel for the petitioner that the petitioner is the President of the Union, he is entitled for some additional benefits, in view of the government circular dated 15.5.2014. It is the submission of the learned counsel for the petitioner that in view of the said government circular, the petitioner, who the President of the Union, cannot be transferred within a span of ten years in his service at a place.

The learned counsel for the respondent - Zilla Parishad vehemently opposes the petition. He submits that the petitioner misinterpreted the circular and he supports the order passed by the learned Member, Industrial Court. As heavy reliance is placed by the learned counsel for the petitioner in circular, dated 15.5.2014, to submit that the action of the Zilla Parishad is mala-fide and it would be necessary to refer to the said circular. The circular deals with the policy of transfer of Zilla Parishad employees. The circular deals with the special benefits while transferring the employees to naxal-infested area or the tribal area. The Clause-IV deals with the priority and an exception is carved out for those employees in case of transfer to naxal-infested area or tribal area. These are those employees who are having serious ailments like paralysis, heart, kidney, cancer, unmarried female, the widows of solider or armed forces personnel and the unmarried female employees. The learned counsel for the petitioner wanted to place reliance in the category IV of the said category, it reads thus :

“If an employee is a President of a recognized Union either at State level or the District level or the Secretary, Treasurer or working President of such an Union, such office bearers of the Union, is entitled for extension at a particular place, wherein he has completed 10 years and on transfer of such

an employee, if that employee office bearers completes a tenure of five years and he is continued as an office bearers, he can be re-transferred to a Taluka place or at District Headquarter.”

The attempt of the learned counsel was to submit that in no case such an employee can be transferred within a span of ten years and on this basis, the learned counsel submits that the action of the Zilla Parishad is malafide. The learned Member, Industrial Court, on the backdrop of the learned counsel for the petitioner as well as in view of the various judgments, arrived at a conclusion that the policy on which the petitioner placed reliance was not as if no transfer can be permitted of an employee who is office bearers of the Union within span of 10 years. The policy gives a benefit to an employee of additional five years to continue at one station, if he has completed 10 years at that station. Reading this clause as if there is complete prohibition to transfer such an employee, who is office bearers of Union, would be misreading of the said clause, as it is rightly held by the learned Member, Industrial Court, that the submissions were not acceptable so as to grant the interim relief in favour of the petitioner as the transfer being the incidental part of service of the employee. Though an attempt seems to be made before the learned Member, Industrial Court, to take benefit of exemption of transfer to tribal areas as prevailed, it was an attempt to submit transfer to Dharni tahsil being a tribal area. Even such an attempt could not have helped the petitioner for the reason that the exemption to such places like naxal-infested tribal area are in peculiar circumstances and to those employees either serious ailment or the employees referred above. In such situation, I see no error committed by the learned Member, Industrial Court.

The learned counsel for the petitioner then submits that as the matter involves the transfer of the petitioner, who was

protected by the interim order passed by the learned Member, Industrial Court and also by this Court, by order dated 22.7.2015 and as this court is not inclined to show any indulgence in the order passed by the learned Member, Industrial Court, the learned Member, Industrial Court be directed to decide the complaint as early as possible. This request by the learned counsel for the petitioner being reasonable. There is no difficulty to direct the learned Member, Industrial Court, to decide the proceeding as expeditiously as possible. The prayer of the learned counsel for the petitioner for continuation of interim relief, in such situation, in view of the observation of this court referred above, cannot be granted.

The petition is disposed of in view of the above directions.

**JUDGE**

Gulande