

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

WRIT PETITION NO.5983 OF 2016

Shri Yuvraj S/o Pitambar
Jadhav. ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

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**WITH
WRIT PETITION NO.5982 OF 2016**

Mr.Shivaji T.Shelke,advocate for the petitioners.
Mr.P.N.Kutti, A.G.P. for the State.
Miss. Vaishali S.Choudhari, advocate for
Respondent Nos.3 and 4.

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**CORAM : S.V.GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

Date : 25.04.2017.

PER COURT :

1. The petitioners assail the order of
transfer, transferring them to scheduled area.

2. It is submitted that the petitioners have joined at the transferred places.

3. Mr.Shelke, learned counsel for the petitioners submits that the petitioners have worked in scheduled area for more than six (6) years. Those who have never worked in scheduled areas are retained in non-scheduled area and the petitioners who have worked in scheduled area are being transferred again to the scheduled areas. The same is not permissible. The learned counsel relies on the Government Resolution dated 15.5.2014. The learned counsel further submits that persons to whom notices have been given of submitting false disability certificates are being treated as exempted from transfer. The same is also erroneous. The impugned transfer orders be quashed.

4. Miss.Choudhari, learned counsel for Respondents submits that considering the seniority and all the relevant aspects, the petitioners are transferred. The petitioner in W.P.No.5982/2016 is transferred at his request.

According to the learned counsel, the seniority has been maintained. The persons who are exempted are properly considered. The recent disability certificate, the tenure of having worked at a particular place has been considered. The persons who have been transferred just a year back could not have been considered for transfer again before completion of the tenure.

5. We have considered the submissions canvassed by the learned counsel for respective parties. It appears that the petitioners have worked in scheduled areas earlier also. Naturally, while passing the transfer orders, the seniority has to be considered, so also the exemptions if any, a party being entitled to.

6. The authorities would have a better view of the vacancies available of the post on which the petitioners are working at different places. Certainly, the authorities can consider vacancies available and the guidelines laid down in the Government Resolution dated 15.5.2014 and take decision upon the transfer afresh.

7. It is submitted that a fresh Government Resolution has been issued dated 17.2.2017. The same also would be considered by the authority as would be applicable.

8. Considering above, we pass the following order :

a) The authorities shall consider the case of the petitioners for transfer to a non-scheduled area afresh after hearing the petitioners and take decision upon it expeditiously. The representations are pending. The petitioners shall appear before the authority on 2.5.2017. The authority shall take decision upon the representations of the petitioners on or before the general transfers to be effectuated.

b) The Writ Petitions are disposed of. No costs.

(SANGITRAO S. PATIL, J.)

(S.V.GANGAPURWALA, J.)

