

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6438 OF 2017

Shri Bharat Raosaheb Shejal ... Petitioner
Vs.
The State of Maharashtra & Anr. ... Respondents

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Mr. N. V. Bandiwadekar i/b. Mr. S. A. Mane for the Petitioner.
Ms. Kavita Solunke, AGP for Respondent No.1-State.
Mr. Yuvraj Gharal h/f Mr. Vijay Killedar for Respondent No.2.

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**CORAM : B. R. GAVAI AND
RIYAZ I. CHAGLA, JJ.**

DATE : JULY 13, 2017.

P.C. :

1. Rule. Rule made returnable forthwith. Heard finally by consent.
2. The petitioner, by way of this Petition, has challenged clause 9 of the Government Resolution dated 24th April, 2017. The petitioner is not pressing the same into service and restricting his claim in the Petition for direction to respondent no.2-Sangli Zilla Parishad to absorb him in it's Primary School as a Teacher by way of inter-district transfer from Ratnagiri Zilla Parishad.
3. The petitioner is working as an Assistant Teacher in Ratnagiri Zilla Parishad and his wife is working as an Assistant Teacher in Sangli Zilla Parishad.

4. As such, under the erstwhile policy, which was notified by the State Government by its Resolution dated 29th September, 2011, the petitioner had applied to the Ratnagiri Zilla Parishad as well as the Sangli Zilla Parishad for his inter-district transfer.

5. The Ratnagiri Zilla Parishad has given its no objection vide communication dated 7th February, 2015, whereas, respondent no.2 has also communicated its no objection and the availability of post in Sangli Zilla Parishad vide communication dated 5th January, 2017 which was addressed to the Chief Executive Officer, Ratnagiri Zilla Parishad. However, since respondent no.2 is not proceeding further with the said proposal, the petitioner was required to approach this Court. In the meantime, the policy has been changed and the new Government Resolution has been issued on 24th April, 2017.

6. The learned counsel for respondent no. 2 states that though respondent no.2 had given its no objection, the transfer could not be effected on account of the letter received from the State Government dated 7th April, 2017.

7. We find that the stand taken by respondent no.2 is without any substance. In view of the policy which has been formulated vide Government Resolution dated 24th April, 2017, and specifically clause 6 thereof, the petitioner is entitled for transfer. Clause 6 clearly provides that such of the teachers, who have been granted no objection certificate from both the Zilla Parishads,

could not be affected by the policy of 2017. No doubt that the said clause provides that if it is revealed that the no objection certificate is received by some illegal means, the respective Zilla Parishad would be entitled to take serious action against the concerned teacher.

8. It is not the case of respondent no.2 that the no objection of either of the Zilla Parishads is obtained by the petitioner by illegal means.

9. In that view of the matter, we find that the petition deserves to be allowed. The respondent no.2 is directed to take necessary steps so as to enable the petitioner to resume his duties in Sangli Zilla Parishad within a period of four (04) weeks from today.

10. Rule is made absolute in the aforesaid terms. The Writ Petition is accordingly disposed of. There shall be no order as to costs.

(RIYAZ I. CHAGLA, J.)

(B. R. GAVAI, J.)