

(1)

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

WRIT PETITION NO.1454 OF 2017

1. Shashikant s/o Subhash Deshmane,
Age: 35 years, Occu: Service,
R/o Ambajogai, Tal. Ambajogai,
District Beed
2. Tuljiram s/o Baliram Sonnar,
Age: 32 years, Occu: Service,
R/o Yelda, Tal. Ambajogai,
District Beed
3. Nirmala Ananta Datir,
Age: 35 years, Occu: Service,
R/o Ashti, Tal. Ashti,
District Beed
4. Baburao s/o Rawan Nakhate,
Age: 33 years, Occu: Service,
R/o Ambajogai, Tal. Ambajogai,
District Beed
5. Manjusha Vasudeo Thorbole,
Age: 35 years, Occu: Service,
R/o Chincholi Mali, Tal. Kaij,
District Beed
6. Balasaheb s/o Hausrao Mote,
Age: years, Occu: Service,
R/o Ashti, Tal. Ashti,
District Beed
7. Rajendra s/o Pandharinath Bhosale,
Age: 34 years, Occu: Service,
R/o Ashti, Tal. Ashtri,
District Beed
8. Kishor s/o Chandrakant Bhondave,
Age: 34 years, Occu: Service,
R/o Georai, Tal. Georai,
District Beed

(2)

9. Shailendra s/o Sharadrao Andure,
Age: 36 years, Occu: Service,
R/o Shirur Kasar, Tal. Shirur (Kasar),
District Beed

..PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
Rural Development Department,
Mantralaya, Mumbai

2. The Chief Executive Officer,
Zilla Parishad, Beed

..RESPONDENTS

Mr S. S. Thombre, Advocate for petitioners;
Mr G. O. Wattamwar, A.G.P. for respondent No.1;
Mr U. S. Mote, Advocate for respondent No.2

**CORAM : PRASANNA B. VARALE
AND
MANISH PITALE, JJ.**

DATE : 6th September, 2018

ORAL ORDER:

Heard Mr Thombre, learned Counsel appearing on behalf of the petitioners at length.

2. The petitioners are the teachers and are before this Court challenging the order dated 14th July, 2016, passed by the Chief Executive Officer, Zilla Parishad, Beed. Mr Thombre, learned Counsel for the petitioners, by inviting our attention to the various transfer orders placed on record, submits that these petitioners were transferred to the place situated in Beed district and more particularly at the place in the area of Panchayat Samiti. He then submits that the petitioners were working initially in Thane district at

(3)

various places and subsequently, these petitioners are accommodated in the schools at Palghar and presently all these petitioners are working at Palghar in various schools.

3. Learned Counsel for the petitioner then submits that these schools are in the area of Thane district which is known and recognized as a tribal area. He then submits that the petitioners were having No Objection Certificates issued by the Zilla Parishad, Thane as well as Zilla Parishad, Beed. It was the further submission of Mr Thombre that the petitioners are having a reasonable and valid expectations that in view of these transfer orders, the petitioners would be accommodated in the schools situated in Beed district.

4. Mr Thombre, learned Counsel for the petitioner then submits that the communication dated 14th July, 2016, forwarded from the Chief Executive Officer, Zilla Parishad, Beed to the Chief Executive Officer, Zilla Parishad, Thane states that the teachers, in whose favour the present orders are passed and they are accommodated in Beed districts, may not be relieved. It is further stated in the communication that already there were the transfer orders passed on the basis of mutual consent. Then there is reference to certain orders passed by the High Court in respect of reservations and accordingly the Chief Executive Officer, Zilla Parishad, Beed submitted to the Chief Executive Officer, Thane not to relieve those teachers whose transfers orders are passed for Beed district.

(4)

5. It was the submission of Mr Thombre that the petitioners, by exercising their choices under Government Resolution dated 11th July, 2000, prayed for transfers from Thane district to Beed district and the petitioners now apprehending that because of the communication dated 14th July, 2016, in spite of the relieving order passed in their favour, they may not be permitted to join the schools in Beed district. It was also submission of Mr Thombre that various posts are available in Beed district even as per the reserved seats and some of the petitioners are the candidates belonging to the reserved category. Thus, the sum and substance of the petitioner is for insistence to direct the authorities of Zilla Parishad, Beed to permit them to join the schools in the areas of Beed district.

6. Learned Counsel appearing on behalf of respondent No.2 Zilla Parishad, Beed, by inviting our attention to affidavit-in-reply, submits that the statement made by the petitioners that there are posts available in Beed district is not in consonance with the record. He invited our attention to paragraph No.3 of the affidavit-in-reply to submit that as per the staffing pattern dated 30th September, 2016, no post was available for accommodation of petitioners, but excess teachers are working in VJA-45, NTC-52 and NTD-350 category as on today at Zilla Parishad. It is further stated that even no post are available in Marathi medium.

(5)

7. Mr Thombre, learned Counsel for the petitioners orally submits that this position of staffing pattern is of 2016 and same would not apply to the petitioners for the reason that transfer order itself is of year 2014 and as such, the consideration would be staffing pattern available for academic year 2013-2014.

8. Though these rival submissions are made, considering the policy which is placed on record along with the affidavit-in-reply filed by Zilla Parishad, Beed, we are of the opinion that the policy clearly takes care of the apprehension of these petitioners. It would be useful to refer to certain relevant modalities and procedures in Government Resolution dated 24th April, 2017. The title of the said Resolution itself states the approach of the policy and i.e. modified policy for intra-district transfers of the teachers. Insofar as the modalities for putting the claim, Clause No.3 states about requisite conditions. Then Clause No.6 specifically deals with the situation i.e. in case of the employees were issued No Objection Certificates by the both Zilla Parishads. Then Clause Nos.11 and 12 are relevant clauses. Clause No.11 states that such teachers, who made requests for intra-district transfers are not entitled for the emoluments or the joining period. Clause No.12 clearly states that transfer orders passed before the Government Resolution dated 24th April, 2017 are protected, meaning thereby the apprehension expressed by these teachers is already taken care of. Then Clause No. 9.4 refers to consideration of the seniority. It states that the open

(6)

category candidates' cases would be considered as per their seniority in their cadre. Then further it makes clear that if there is a similar date of appointment of the teachers and if birth date of two teachers is one and the same, in that case, the seniority would be considered as per the English alphabets. This also makes it clear that every possible care is taken to consider the aspect of seniority. The said Government Resolution then states about the grievance redressal forum and Clause No.17 reads that if there is any grievance in spite of intra-district transfers, the employee is entitled to submit his grievance application before the Divisional Commissioner and the Divisional Commissioner to decide this grievance application within stipulated period of 30 days. This clause also states that if there is some irregularities in the affairs of intra-district transfers and if such irregularity is caused by some officers, action would be initiated against such erring officers.

9. Taking into consideration all these modalities and formalities, this Government Resolution takes care of every aspect and the apprehension expressed by the petitioners is not justified one.

10. The statement in paragraph No.8 of affidavit-in-reply filed by respondent No.2 Zilla Parishad, Beed also takes care of the grievance of the petitioners which reads thus :-

(7)

“8. As on toady there is no post vacant for considering the claim of the petitioners on couple convenience and as and when the post will available the claim of the petitioners will consider on priority.”

9. In view of the this statement and considering all above referred aspects, petition is disposed of.

(MANISH PITALE, J.)

(PRASANNA B. VARALE, J.)

sjk