

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7473 OF 2018

Dattatray s/o Vishnu Kshirsagar & Others Petitioners

Vs.

State of Maharashtra & Others Respondents

Mr. S.A. Deshmukh h/f Mr. A.G. Ambetkar for the
Petitioner.

Ms S.D. Vyas, B-Panel Counsel, for the Respondent-
State.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE : JULY 18, 2018

P.C:

1. By this petition, the petitioners are seeking the
following reliefs:-

“(A) *The Writ Petition may kindly be allowed.*

(B) *By issuing a Writ of Mandamus or any other appropriate writ, order or directions in the like nature, this Hon'ble Court may kindly be pleased direct the respondents to issue transfer orders in favour of the petitioners and relieved forthwith as per the Government Resolution dated 27.02.2017*

issued by the Secretary of Rural Development Department, State of Maharashtra wherein revise policy of intra-district transfers of Zilla Parishad primary teachers.

- (C) *By issuing a Writ of Mandamus or any other appropriate writ, order or directions in the like nature, this Hon'ble Court may kindly be pleased to direct the respondents to transfer the petitioners forthwith as per the Government Resolution dated 27.02.2017 issued by the Secretary of Rural Development Department, State of Maharashtra prior started the academic year 2018-2019.*
- (D) *By issuing a Writ of Mandamus or any other appropriate writ, order or directions in the like nature, this Hon'ble Court may kindly be pleased direct the respondents to completed the transfer procedure/process forthwith and to issue relieving/posting orders as per the Government Resolution dated 27.02.2017 issued by the Secretary of Rural Development Department, State of Maharashtra.*
- (E) *By issuing a Writ of Mandamus or any other appropriate writ, order or directions in the like nature, this Hon'ble Court may kindly be pleased direct the respondent No.1 & 2 to completed the transfer procedure/process forthwith of Ratnagiri, Sindhudurg, Raigad, Thane, Palghar district and to issue transfer/relieving/posting orders as per the Government Resolution dated 27.02.2017 issued by the Secretary of Rural Development Department, State of Maharashtra.*
- (F) *Pending the hearing and final disposal of the present Petition, this Hon'ble Court may kindly be pleased to direct the respondents to transfer the petitioners as per the Government Resolution dated 27.02.2017 issued by the Secretary of Rural*

Development Department, State of Maharashtra.

(G) *Pending the hearing and final disposal of the present Petition, this Hon'ble Court may kindly be pleased direct the respondents to completed the transfer procedure/process forthwith of Ratnagiri, Sindhudurg, Raigad, Thane, Palghar district and to issue transfer/relieving/posting orders as per the Government Resolution dated 27.02.2017 issued by the Secretary of Rural Development Department, State of Maharashtra.*

(H) *Interim and ad-interim reliefs in terms of prayer clause "F to G" above may please be granted."*

2. These 19 petitioners, who are in the service of the Zilla Parishads in Raigad/Sindhudurg Districts, state that in the intra-district transfer policy of Primary School Teachers, they had indicated their options and choice. They were left with no alternative but to indicate their option and choice for it was the intention of the State to implement this policy. Once the intra-district transfers for 2018 policy could not be implemented in some Districts on account of the Code of Conduct for the Legislative Council Elections being in force, then, we do not see how a writ of mandamus can be issued to the Government and to the concerned Zilla Parishads to act in furtherance of this policy and transfer the petitioners. That is a power vesting in the

authorities and it is their prerogative. Today, when this matter was called out, the Rural Development Department of the Government of Maharashtra has filed an affidavit and in paragraphs 4, 5 & 6, in terms, stated that no transfer orders are being issued for the academic session 2018-19 as that session has already commenced. If any transfer or posting orders are now issued, they will cause damage to the academic interests of the students as well as create hardship for the teachers. In view of this statement made on oath and in the paragraphs referred above, we accept this as an undertaking to this Court. In view of the above, nothing survives in this writ petition and it is disposed of.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)