

IN THE COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3619/2018

(Homraj s/o Bhiwaji Bahekar and others **VS.** The State of Maharashtra
and others)

AND

WRIT PETITION NO. 3648/2018

(Ku.Anita Mohanlal Waghmare and another **VS.** The State of
Maharashtra and others)

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

Court's or Judge's order

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Mr. A.C.Dharmadhikari, Adv. for petitioners

Mr. A.D.Sonak, AGP for respondent-State

Mr. A.Kapgate, Adv.for respondents 2 and 3

CORAM : **P.N. DESHMUKH &**

MRS. SWAPNA JOSHI, JJ.

DATED : **7th December, 2018.**

1. Learned counsel for petitioners has tendered at Bar an order of Division Bench of this Court dated 12th September 2018, passed in Writ Petition No.5702/2018 and submitted that the subject-matter involved in the petition in hand and the one disposed of, is the same and prayed that similar orders be passed.

2. Learned counsel for respondent nos. 2 and 3 has along with Pursis produced on record certain documents including one policy of respondent no.2-Z.P. with regard to transfer of teachers. Prayer Clause (i) in the petition reads thus:-

“(i) Quash and set aside the orders of transfer dated 15.6.2018 issued by respondent no.2-Zilla Parishad, Gondia (Annexure K, L and M) and direct the respondents to issue appropriate orders of transfer keeping in mind

the criteria of retaining husband and wife within the radius of 30 kms, as fixed in Government Resolution dated 27.02.2017 in the interest of justice.”

3. The petitioners are transferred by order dated 15.6.2018 issued by respondent no.2 beyond 30 kms. from the place of work where their spouses are working. This Court, while granting interim relief in favour of the petitioners by its order dated 28.6.2018, had found that the transfers effected as aforesaid were in contravention to the Rules prescribed by Government Resolution dated 27.2.2017 and while protecting the petitioners, had directed the parties to keep posts vacant within 30 kms from the existing posting of the petitioners, to accommodate them subject to the order of the present petition.

4. In Writ Petition No.5702/2018 in similar set of circumstances, on hearing learned counsel for the parties, finding that there were vacancies within 30 kms. from the place of posting of petitioners therein where their spouses were posted, directions were issued to petitioners to make a representation. This Court by order dated 26th October, 2018 in Writ Petition Nos. 5753/2018 and 5754/2018 had directed the petitioners therein to make such a representation to the Divisional Commissioner within ten days from the date of order, with further direction to the authority to consider the same within a period of four weeks.

5. In view of the undisputed facts as aforesaid, we find that the petitions can be disposed off by passing similar order. Accordingly, we grant leave to petitioners to make representation to Divisional Commissioner, Nagpur within a period of ten days from today and grant

further leave to treat present petition as the representation to be placed before the Divisional Commissioner for its consideration for accommodating petitioners within a radius of 30 kms. to be posted along with their respective spouses. If such a representation is made, the same be considered within a period of four weeks from the date of filing of such a representation.

6. The interim orders in force to continue till the decision by the Divisional Commissioner, Nagpur.

7. With these directions and keeping all the rival contentions open, we dispose of both the Writ Petitions, with no order as to costs.

JUDGE

JUDGE

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