

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5796 OF 2018

SHABANA TABASSUM SHAIKH MOHAMMED
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Ghatge Mahesh V.
AGP for Respondent No. 1 : Mr. A. R. Kale
Advocate for Respondents No. 2 & 3 :
Mr. S. G. Joshi

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CORAM: S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.

DATE: 12th APRIL, 2019

PER COURT :

1. Mr. Ghatge, learned counsel for the petitioner submits that the petitioner was not due for transfer but was asked to fill in the preference form. Pursuant to the directions given by the respondent the petitioner had filled in the preference. The petitioner was transferred to the Zilla Parishad Multipurpose High School Parbhani (Urdu), Parbhani from Zilla Parishad Kanya Prashala Parbhani (Urdu), Parbhani. The transfer order was issued on 24.05.2018. The petitioner

joined the place of transfer. Subsequently, on 06.06.2018 displacement order of the petitioner is issued and thereby petitioner is directed to join Zilla Parishad High School Pathri (Urdu), Pathri under order dated 12.06.2018. After the petitioner was displaced the petitioner was again asked to fill in the preference form. The petitioner had no option. After the cut of date i.e. 30.05.2018, no further transfer could have been effectuated. The transfer being against the policy deserves to be set aside.

2. Mr. Joshi, learned counsel for the Zilla Parishad submits that the on-line computerised process was automatic and considering the vacancies and seniority some of the transfer orders are cancelled. The petitioner was intimated that the transfer order is cancelled on 06.06.2018 and thereafter she was advised to fill in on-line form. The petitioner has again given the preference on-line. Considering the seniority in the service and the vacancy at the school she was

transferred to Zilla Parishad High School Pathri (Urdu), Pathri.

3. It appears that the petitioner has joined at her transferred place i.e. Zilla Parishad High School Pathri (Urdu), Pathri. Almost one academic year has lapsed. It will not be possible to get the position existing today with regard to the vacancies at Parbhani qua the availability of the post to the petitioner. It is submitted that 10% compulsory vacancies are to be maintained.

4. At present it would not be possible to direct accommodation of the petitioner in a manner that it would displace some one else. It appears that the petitioner was transferred initially under order dated 24.05.2018 and the petitioner had jointed that place. Within a span of 10 days' the order was cancelled and the petitioner was placed in displaced category and again a fresh transfer order was issued. Certainly, the scheme was not properly adhered to.

5. In absence of any facts and figures available with us with regard to various vacancies, it will not be possible to pass a specific order.

6. However, considering the fact that the petitioner was required to be displaced from her transferred place of work after joining at the transferred place, we direct respondents no. 2 and 3 to consider the representation of the petitioner seeking transfer at Parbhani or within it's vicinity on its own merits, considering the vacancy, the roster and all other relevant aspects. The decision shall be taken at the time of the General Transfers to be effectuated in the year 2019 – 2020. We have passed this order considering the peculiar facts of the case and in view of that the condition of lockin period may not be applied to the petitioner.

7. Writ Petition stands disposed of accordingly.
No costs.

[A. M. DHAVAL, J.] [S. V. GANGAPURWALA, J.]
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