

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

WRIT PETITION NO. 6212 OF 2018

Gajanan Bhagwanrao Boarkar

.... Petitioner

Versus

The State of Maharashtra & Ors.

..... Respondents

...

Shri. Sunil M. Vibhute, Advocate for the petitioner

Shri. P. S. Patil, AGP for respondent/State

Shri. V. V. Bhavthankar, Advocate for respondents No. 2 and 3

Ms Sudha Kulthe, Advocate for respondent No. 6

....

**CORAM : S. V. GANGAPURWALA
AND
A. M. DHAVAL, JJ.**

DATE : 1ST APRIL, 2019

ORAL ORDER:

1. Shri. Vibhute, learned counsel for the petitioner submits that, the petitioner is appointed as Assistant Teacher by respondent No. 2. According to the learned counsel, the petitioner was the Caretaker of NCC Unit of respondent No. 2. The policy is that, such persons cannot be transferred without the concurrence of respondent No. 6 as it requires huge financial involvement i.e. training is imparted to the person like the petitioner and if they are transferred, again fresh expenses are to be incurred on the new incumbent. The

learned counsel submits that the policy is *writ large* as per the letter dt.08.11.1999. Even the Headmaster had recommended not to transfer the petitioner however the petitioner is transferred. The Commanding Officer has also requested respondent No. 2 to cancel the transfer of the petitioner as Part-time NCC Officer.

2. Ms Sudha Kulthe, learned counsel for respondent No. 6 submits that, respondent No. 6 does not have any control over the appointment or transfer of the petitioner.

3. Shri. Bhavthankar, learned counsel for respondents No. 2 and 3 submits that the petitioner was due for transfer. He was working there since 2012. As he was due for transfer, he has been transferred.

4. We have considered the submissions advanced by the counsel for respective parties.

5. It is not disputed that the petitioner is appointed as a Assistant Teacher with respondent No. 2 and was also officiating as Part-time NCC Officer. Respondent No. 6 has issued letter to his learned counsel that he has no authority in appointment or transfer

of associated NCC officers. As the petitioner was due for transfer, the authority has directed to transfer the petitioner. The transfer has been effectuated.

6. In light of the above, we may not interfere with the transfer order. It is for respondent No. 6 to take any action if it so desires.

7. The Writ Petition is accordingly disposed of. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde