

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.19635 of 2018

Date of Decision: August 27, 2019

Yasoda

...Petitioner

Versus

State of Haryana & Another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Vijay Pal, Advocate,
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G.Haryana,
for the State.

AMIT RAWAL, J.

Prayer in the present writ petition is for quashing of the order dated 02.08.2018 (Annexure P-7) qua the petitioner, whereby all the orders of transfer of Guest Faculty Teachers were ordered to be cancelled, on the ground that vide order dated 12.03.2018 (Annexure P-4) she has been transferred from Gurgaon to Panchkula as per the guidelines dated 27.10.2010 (Annexure P-1).

Mr. Vijay Pal, learned counsel representing the petitioner submitted that the petitioner, who is working as Sanskrit Guest Teacher at Government Middle School Naharpur Kasan (Gurugram), was ordered to be adjusted to Govt. Middle School Kishangarh, Panchkula. Though the husband of the petitioner was permanently posted as Personal Assistant in the Indira Gandhi National Open University and vide order dated 03.01.2018 was transferred to Chandigarh, but since the aforementioned

order was recalled, petitioner has already been, as per order dated 21.03.2018 (Annexure P-5), relieved, but in view of the impugned order, transfer order has been cancelled, which is not sustainable in the eyes of law. The order of transfer is not in consonance with the transfer policy Annexure P-1.

Per contra, Mr. Hitesh Pandit, learned Additional Advocate General, Haryana submitted that the School Education Department, Government of Haryana took a conscious decision in November, 2005 to fill up the vacant posts by way of engaging guest faculty teachers to prevent the sufferance of the students owing to the paucity of teachers. Vide memo dated 27.10.2010, respondents decided to adjust the guest faculty female teachers in case of marriage after engagement and only on account of the unavoidable family circumstances. However, in the present case, ground of her adjustment in other district cannot fall within the expression “unavoidable circumstances” and, therefore, would not be entitled to equitable relief. There are hundreds of other guest faculty, contractual and adhoc teachers, who applied for adjustment and got adjusted, but when this fact came to the notice of the Government of Haryana, vide order dated 02.08.2018, a conscious decision was taken to cancel all the transfer orders and, thus, prayed for dismissal of the writ petition.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of the learned counsel for the petitioner.

The Government of Haryana has already come out with an act called ‘Guest Faculty Teachers’ and their service is non-transferable and only to be adjusted in case of work load besides allowing to continue to

work till the process of recruiting regular incumbents is completed. The contents of the impugned letter dated 02.08.2018 are extracted as under:-

“URGENT

IMMEDIATE

From

*Director Elementary Education Haryana,
Panchkula.*

To

*All the District Elementary Education Officers
in the State.*

Memo No.2/27-2018 CO (3)

Dated, Panchkula, the 02.08.2018

*Subject: Cancellation of transfer/adjustment orders of Guest
Teachers.*

*It is hereby directed that all transfer/adjustment orders
of Guest Teachers JBT/C&V/Masters and Adhoc JBT Guest
Teachers issued by this Directorate in the months from 1st
March 2018 to till date are hereby cancelled with immediate
effect.*

*They are also directed that such Guest/Adhoc Teachers
should be relieved immediately and asked to join their previous
place of posting. However, surplus Guest Teachers who were
adjusted due to no workload and dislocate guest teachers who
were relieved due to joining of regular teacher will not be
disturbed due to this letter.*

The above instructions be complied with strictly.

*Registrar Education
for Director Elementary Education
Haryana, Panchkula.”*

The contents extracted here-in-above reveal that earlier, guest faculty teachers had been making submission and seeking adjustment, which created an anomalous situation and, thus, in order to prevent the same and sufferance of the students, a conscious decision was taken. In such

circumstances, the argument of the learned counsel for the petitioner
impugning the action of the State cannot be brought within the realm of
judicial review.

Resultantly, writ petition stands dismissed.

August 27, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No