

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5694 OF 2020

Sanjay s/o Keshavrao Deshmukh and Anr. ...Petitioners

Versus

The State of Maharashtra and Ors. ...Respondents

Mr P.D. Jarare, Advocate holding for
Mr S.S. Thombre, Advocate for Petitioners
Mr K.N. Lokhande, A.G.P. for Respondent No.1/State
Mr U.B. Bondar, Advocate for Respondent No. 2

WITH
WRIT PETITION NO. 5741 OF 2020

Shriram S/o Shivaji Veer and Ors. ...Petitioners

Versus

The State of Maharashtra and Anr. ...Respondents

Mr S.S. Thombre, Advocate Petitioners
Mr K.N. Lokhande, A.G.P. for Respondent No.1/State
Mr U.B. Bondar, Advocate for Respondent No. 2

WITH
WRIT PETITION NO. 5695 OF 2020

Dilip S/o Bhimrao Misal and Ors. ...Petitioners

Versus

The State of Maharashtra and Anr. ...Respondents

Mr S.S. Thombre, Advocate Petitioners
Mr K.N. Lokhande, A.G.P. for Respondent No.1/State
Mr U.B. Bondar, Advocate for Respondent No. 2

WITH
WRIT PETITION NO. 6198 OF 2020

Sindhu D/o Jaivant Gite

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr S.S. Thombre, Advocate Petitioner
Mr K.N. Lokhande, A.G.P. for Respondent No.1/State
Mr U.B. Bondar, Advocate for Respondent No. 2

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE: 10th DECEMBER, 2020

PER COURT :

1. The petitioners are challenging the order of transfer. Mr Thombre, the learned Counsel for the petitioners amongsts various grounds, agitated submits that the basis of the order of transfer was circular dated 07.07.2020 issued by the Government. The Government has subsequently clarified that circular dated 07.07.2020 does not apply to the transfer of the Gramsevak. The very basis of the order does not stand. It is further contended that the transfers cannot be effectuated outside the taluka as a general rule and if at all, the transfers are to be effectuated outside the taluka, the prior permission of the Divisional Commissioner is necessary. The same is admittedly not obtained in the present matter. The Chief Executive Officer of Zilla Parishad cannot issue orders of transfer after 31st May, 2020. In the present cases, orders of transfer are issued on 10th August, 2020. The learned Counsel submits that the orders of transfer are per se ineffective, null and void and without authority.

2. According to the learned Counsel Mr Bondar, the petitioners are at one place for more than 14-15 years. Majority of the petitioners have joined at the transferred place. According to the learned Counsel, circular dated 07.07.2020 is not basis for transfer. The said circular is referred only to the extent of transferring 15% employees. The Chief Executive Officer has power to transfer and if at all, dispute arises with regard to the transfer, the Commissioner is the competent authority to adjudicate the lis. The learned Counsel relies on the order of transfer and the Government Resolution dated 15.05.2014.

3. According to Mr Thombre, the learned Counsel, as per the Government Resolution dated 04.05.2020, the transfers itself are prohibited during the COVID-19 pandemic.

4. It appears that both the parties are relying upon the powers of the Chief Executive Officer to effectuate transfers. The transfers are effectuated under the order dated 10th August, 2020. If irregularity occurs in the orders of the transfers, then the Divisional Commissioner can look into the said aspect. The Divisional Commissioner is superior authority of the Chief Executive Officer. Clause No. 3 of the Government Resolution dated 15.05.2020 also permits the Divisional Commissioner to look into the irregularities committed in transfers.

5. In light of that, the petitioners may approach the Divisional Commissioner. If the petitioners approach the Divisional Commissioner within a period of 15 days from today, the same shall be considered well within time. The interim orders passed by this Court shall

continue for the period of 15 days from today so as to enable the petitioners to assail the respective orders before the Divisional Commissioner. All the contentions of the parties are kept open. Needless to state on lapse of period of 15 days protection granted shall come to an end.

6. We hope and trust that the Divisional Commissioner shall decide the proceedings expeditiously.

7. The writ petitions are accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

[S.V. GANGAPURWALA, J.]

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