

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

104 WRIT PETITION NO.7125 OF 2020

WITH

CA/7257/2020 IN WP/7125/2020

SUHASINI KASHINATHAPPA KALYANI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner: Mr. N P Patil Jamalpurkar

AGP for Respondents No. 1 to 3: Mr. K. N. Lokhande

Advocate for Respondent No. 4: Mr. T. G. Gaikwad

Advocate for Respondent No. 5: Mr. M. V. Salunke

h/f. Mr. V. D. Salunke

Advocate for Intervenor: Mr. R. S. Deshmukh,

Senior Advocate i/b. Mr. P. B. Vaidya

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**CORAM: S. V. GANGAPURWALA &
SMT. VIBHA KANKANWADI, JJ.**

DATE: 01ST DECEMBER, 2020

PER COURT:

1. The petitioner assails the order of transfer.
2. Mr. Patil, learned Counsel for the petitioner submits that petitioner is due to retire in June-2021. The petitioner has rendered 30 years of service at her original school. The transfer order would be stigmatic. The learned Counsel submits that order of transfer is issued by unauthorised person. The person issuing order of transfer is not a Secretary. The learned Counsel submits that respondent no. 5 misrepresented to the

authorities. This Court had not directed the management to appoint respondent no. 5 as a Headmistress in the school in which the petitioner is officiating as a Headmistress. It is with a malafide intention the petitioner is transferred. The permission of the Education Officer is also not obtained.

3. There is an intervention application on behalf of the Trust. The Trust is also represented by another lawyer.

4. We would make it abundantly clear that the change reports are pending before the office of the Assistant Charity Commissioner. In light of that we would not comment upon the persons in the management. It is for the office of the Assistant Charity Commissioner to decide the change report proceedings in accordance with law.

5. It also appears that the institution has parallel managements. The members claiming to be in parallel managements are not interested to get the proceedings decided. In Writ Petition No. 1188 of 2020, filed by the institution, we had under

order dated 02.03.2020 observed that it is for the members of the institution to get orders under amended provisions of Section 22 of the Maharashtra Public Trusts Act, 1950 for provisional acceptance of the change reports. It is submitted that one of the party had moved U/Sec. 22 of the Maharashtra Public Trusts Act, 1950 but the other party had raised objection and the decision could not be arrived at.

6. The transfer is an incidence of service. As observed supra in the present writ petition we are not going to enter into the arena of the disputes amongst the members of the management. The transfer is only to another school run by the same management in the same city.

7. The transfer is not stigmatic. The transfer is said to be only on the administrative ground. We would have considered the order of transfer if the same would have been stigmatic but the order of transfer does not appear to be stigmatic. We do not find that respondents also have any doubt about the efficiency of the petitioner in

discharging her duties. Probably, the management is of the opinion that the services of the petitioner would be better utilized in the other school.

8. The contention of the learned Counsel for the petitioner that it was only a stop gap arrangement of appointing I/c. Headmaster till the pendency of Writ Petition No. 8468 of 2017 would not affect the orders of transfer. The petitioner's rights are protected. The petitioner's pay scale, designation are protected.

9. It is for the petitioner to approach the management to redress her grievance, if she has any. If the petitioner makes representation to the management with some request, the management shall consider it on it's own merits.

10. In light of the above, the writ petition is disposed of. No costs.

11. In view of disposal of the writ petition, the civil application is also disposed of.