

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

218

CWP-7587-2020

Decided on : 05.08.2020

Rajwinder Singh & others

... Petitioners

Versus

State of Punjab & others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.H.C.Arora, Advocate, for the petitioners.

Ms.Sudeepti Sharma, Addl.AG, Punjab.

(The proceedings are being conducted through video conferencing,
as per instructions.)

G.S. Sandhawalia, J. (Oral)

Petitioners, in the present writ petition, filed under Articles 226/227 of the Constitution of India, seek quashing of the public notice dated 18.05.2020 (Annexure P-8) and the circular dated 24.05.2020 (Annexure P-9) on the ground that the petitioners are not being transferred on account of replacement Teachers not being available.

It is the case of the petitioners that they stand transferred more than 11 months ago vide transfer orders dated 30.07.2019 (Annexures P-3/1 to P-3/15) and the respondents are not relieving the petitioners and are resorting to more transfers in pursuance of Annexure P-8 and direction is, thus, sought to relieve the petitioners from their existing place of postings in schools.

A perusal of the transfer orders dated 30.07.2019 (Annexures P-3/1 to P-3/15) would go on to show that the petitioners have mainly been transferred from the schools in District Tarn-Taran to various districts of the State of Punjab, which is mainly on the basis of the on-line applications for transfer against available vacancies.

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A perusal of the said orders would also go on to show that the said transfer orders were conditional on account of the fact that they would only be implemented on replacement of the Teachers if it becomes less than 50% of the sanctioned strength. Clause 2 of the said orders dated 30.07.2019 reads as under:

“2. In case of Senior Secondary and High Schools, if on implementation of these orders the number of teachers in school becomes less than 50% of sanctioned strength of teachers then these orders will be implemented on the replacement of that teacher.”

The stand of the State is that petitioners are posted at Tarn-Taran District. They had applied on-line for transfer in terms of the transfer policy and on account of shortage of teachers in the said district, most of the posts are lying vacant in the said district. It was decided that the said teachers would be relieved only after their substitutes join at the said place of postings in the schools.

It has further been mentioned that the process of recruitment of 2182 posts of various subjects of Master Cadre for the border area districts have already been initiated by the Department vide public notice dated 28.02.2020. Petitioners and other similarly situated teachers are to be relieved after joining of the substitutes appointed by way of new recruitment or transfers made in 2020. It has further been averred that stations have been kept available for them so that they may join on the same immediately once their substitute is available to join in their place.

It is settled principle that transfers, as such, are not liable to be interfered with until there is mala fide or any violation of any such policy. In

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the present case, as noticed, there the respondents are facing a shortage of teachers in Tarn-Taran district and therefore, petitioners' transfer to other districts have been kept in abeyance.

The stand of the State is clear that as to when the replacement would come, the petitioners would be adjusted in the schools where they have been transferred across the State of Punjab. In such circumstances, no case is made out to exercise the extraordinary writ jurisdiction, as prayed for. It is for the State to ensure that the schools are run and manned by appropriate number of teachers, as required in a situation which is to be related on the ground and this Court is not to substitute the opinion of the administrative authorities as to the number of teachers required in a particular district.

Accordingly, in view of the above, no case is made out for interference in the extraordinary writ jurisdiction. The writ petition is accordingly disposed of, since it is the stand of the State itself that they shall take into consideration the demands of the petitioners as and when they are in a position to do so.

**(G.S. SANDHAWALIA)
JUDGE**

AUGUST 05, 2020
sailesh

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No