

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

WRIT PETITION NO.4150 OF 2018
RAJENDRA ASARAM GHODKE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. M. D. Narwadkar;
AGP for Respondent Nos.1 to 3-State : Mr. S. G. Sangle;
Advocate for Respondent Nos.4 to 6 :Mr. K. B.Jadhavar;
Advocate for Respondent No.7 :Mr. M. B.Bharaswadkar
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**CORAM : RAVINDRA V. GHUGE, AND
S. G. MEHARE, JJ.**

DATE : 10.08.2021

PER COURT :-

1. After hearing this matter for quite some time, we find that peculiar facts emerge from the record which are as under :

- (a) The petitioner was undisputedly working as an Assistant Teacher with the Nagar Palika Shikshan Mandal, Taluka Satara, District Satara;
- (b) The petitioner had joined the Municipal School at Satara on 26/07/2010;
- (c) Admittedly, the petitioner applied for transfer on 10/03/2014 from Nagar

Parishad, Satara to Zilla Parishad, Beed since his wife was working as an Assistant Teacher in Zilla Parishad, Beed. This request was made for couple convenience as per Government Resolution;

- (d) The Chief Executive Officer, Zilla Parishad, Beed, by communication dated 20.05.2014 granted approval for the absorption of the petitioner with Panchayat Samiti, Beed;
- (e) The Chief Officer, Satara Nagar Parishad, Satara addressed the Chief Executive Officer, Zilla Parishad, Beed vide letter dated 25.08.2014 indicating his consent for the request made by the petitioner;
- (f) The Administration Officer, Nagar Palika Shikshan Mandal, Satara, issued letter dated 20.09.2014 addressed to the Deputy Director Education, Kolhapur Division, Kolhapur seeking his approval for such transfer of the petitioner. It was just a proposal for seeking approval and it was entirely within the domain of the Deputy Director Education to consider the said case;

- (g) The State of Maharashtra, Rural Development Department issued a Government Resolution dated 29.06.2017 enabling transfer of Zilla Parishad teachers to be accommodated in Nagar Palika, Nagar Parishad or Municipal Corporation, by consent of the other side;
- (h) By communication dated 15.12.2017, Mr. Sunil Chauhan, Director of Education (Primary) Maharashtra State, Pune informed the Administration Officer, Nagar Parishad, Shikshan Mandal, Satara and the Chief Executive Officer, Zilla Parishad, Beed that the petitioner could be relieved from Satara and could be shifted to Beed after obtaining consent of all the parties;
- (i) On 03.01.2018, the Deputy Director Education, Kolhapur Division, Kolhapur (name not mentioned) granted his approval to the Administration Officer, Nagar Parishad Shikshan Mandal, Satara to take a decision on the one sided transfer request of the petitioner (*Ektarfi Badli*);
- (j) On 15.01.2018, the Administration Officer, Nagar Palika Shikshan Mandal,

Satara relieved the petitioner on the same day fore noon. Such relieving letter was issued by the acting Head Master of the Municipal School (Siddhi Vidhya Mandir), Nagar Palika Shala No.19, Remand Home, Satara, so as to enable the petitioner to report at the Panchayat Samiti, Shikshan Vibhag, Taluka Beed;

- (k) On 16.01.2018, the petitioner reported to the Block Education Officer, Panchayat Samiti Office, Beed;
- (l) Vide communication dated 18.01.2018, the Chief Executive Officer, Zilla Parishad, Beed informed the Administration Officer, Nagar Palika Shikshan Mandal, Satara that there is no scope for accommodating the petitioner, as there were several surplus teachers available, who had to be absorbed prior to accommodating the one sided request of the petitioner for transfer on the basis of couple convenience. In short, the Chief Executive Officer indicated that absorption of surplus teacher was more important than couple arrangement and he, therefore, directed the Administration Officer to reinstate the petitioner from the place where he was relieved;

- (m) On 23.01.2018, considering the direction of the Chief Executive Officer, Zilla Parishad, dated 18.01.2018, the Block Education Officer, Panchayat Samiti, Beed informed the petitioner that the Administration Officer, Nagar Palika Shikshan Mandal, Satara has been informed to cancel his one sided request for transfer and reinstate him at Satara;
- (n) The petitioner addressed a letter dated 07.02.2018 to the Block Education Officer, Panchayat Samiti Office, Beed that since his one sided request was accepted by the Director of Education (Primary) Pune, he should be allowed to report for duties at Panchayat Samiti Office, Beed. A similar letter was again addressed by the petitioner to the same authority on 20.02.2018;
- (o) Pursuant to the above, there are certain representations put forth by the petitioner;
- (p) The Chief Executive Officer, Zilla Parishad, Beed addressed the Block Education Officer, Panchayat Samiti, Beed vide his letter dated 04.04.2018 informing him that the petitioner cannot

be accommodated and considering the reservation roster, prepared in November 2016, no post for the open category is available. The petitioner submits that, today, 109 vacancies are available with the Zilla Parishad, Beed;

- (q) The learned advocate for respondent Nos.4 to 6 submits that because of a fall in the number of students, several teachers have become surplus and the vacancies purportedly available with Zilla Parishad, Beed, today, cannot be filled in;
- (r) It is an admitted position that the petitioner had completed three years in employment at Satara, which alone could have entitled him to seek such a transfer in 2014;
- (s) The Government Resolution dated 29/09/2011 is the most relevant and is self-contained resolution, especially clauses 7, 9 and 11;
- (t) The Government Resolution dated 29/09/2011 allows such an employee to apply for transfer within three years;

- u) The petitioner had applied for transfer on 10/03/2014 (**read the Government Resolution dated 29/09/2011 as regards whether it could permit such an application in March**);

2. The learned Advocate for the petitioner submits that considering Clause 20 of the Government Resolution dated 29/09/2011, the petitioner would approach the Divisional Commissioner, Aurangabad Division, Aurangabad for the redressal of his grievance that he is not being allowed to join at Beed by the Beed Zilla Parishad and is in a truncated position.

3. In view of the above, this petition is disposed off. The learned Advocate for the petitioner submits that he would file his appeal before the Divisional Commissioner at Aurangabad, on or before 21/08/2021 and prays that, as all the parties are before this Court, a date may be fixed so as to enable the parties to remain present before the Divisional Commissioner.

4. We, therefore, request the Divisional Commissioner to post the matter on 03/09/2021 at

3.00 p.m. since all the respondents herein would be causing an appearance suo-moto, before him on the said date and time.

5. We make it clear that the Divisional Commissioner would consider the relevant Government Resolutions in letters and spirit while dealing with the issue raised by the petitioner. As the petitioner has already been relieved from Satara and is yet to be absorbed at Beed, over a period of almost three years and six months, we expect the Divisional Commissioner to conclude the said proceeding, as expeditiously as possible and preferably, on or before 31/12/2021.

6. In the event of an issue of delay in approaching the Divisional Commissioner, Aurangabad, the time spent by the petitioner in this Court from 09/04/2018 till the passing of this order, shall be a ground to be taken into account for condonation of delay.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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