

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10680 OF 2018

Bharat Dnyanu Olekar

..... Petitioner

VERSUS

The State of Maharashtra & Ors.

..... Respondents

Mr. Vinayak Kumbhar, a/w. Mr.Ajinkya Navale, i/b.
Mrs.A.N.Bandiwadekar for the Petitioner.

Mrs. P.J.Gavhane, A.G.P. for the State – Respondent nos.1 and 2.

Mr.S.R.Ganbavale for the Respondent nos. 3 and 4.

**CORAM : A.S.CHANDURKAR &
G.A.SANAP, JJ.**

DATE : 21ST APRIL, 2022.

P.C:-

The challenge raised in this writ petition is to order of transfer dated 10th July, 2018 that has been issued by the respondent no.3 – Management transferring the services of the petitioner who is an Assistant Teacher at the respondent no.4 school.

2. According to the petitioner, the transfer order has been issued in the midst of the academic session and contrary to Rule 41(2) of the Maharashtra Employees of Private Schools (Conditions of Service)

Rules, 1981. The same is liable to be set aside. A prayer is also made by the petitioner is for being paid salary from the period 1st December, 2016 to 16th September, 2017 during which period the petitioner claims to have worked as Assistant Teacher with Yashvant High School, Tasgaon which is being conducted by the Sadhana Shikshan Sanstha.

3. According to the respondent nos. 3 and 4, the petitioner has till date not reported for joining at the school of transfer pursuant to the order of transfer dated 10th July, 2018.

4. After hearing learned counsel for the parties and on perusal of the documents on record, we find that the period of almost four years has now elapsed since issuance of the order of transfer on 10th July, 2018. In these facts therefore the contention that the order of transfer was issued in the midst of the academic session loses its significance. The petitioner shall be permitted to join at the place of transfer as per the order dated 10th July, 2018.

5. Insofar as the prayer for grant of salary from the period 1st December, 2016 to 16th September, 2017 is concerned, it is found that

according to the petitioner, he was at service at Yashvant High School, Tasgaon run by Sadhana Shikshan Sanstha. The respondent nos. 3 and 4 therefore cannot be called upon to pay the petitioner the salary for that period when he was not in their service.

6. The interests of justice shall be met by permitting the petitioner to make a representation to the Education Officer (Secondary) with a grievance to consider this request for payment of salary from 1st December, 2016 to 16th September, 2017. If such representation is made by petitioner, the Education Officer after considering the stand of the Yashvant High School, Tasgaon run by Sadhana Shikshan Sanstha, shall take necessary decision on the same.

7. With these observations, writ petition is disposed of.

[G.A.SANAP, J.]

[A.S.CHANDURKAR, J.]