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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 170 OF 2022

Swati Mohan Shevkar

..... Petitioner

Vs.

Nutan Maharashtra Vidya Prasarak
Mandal and Ors.

..... Respondents

Mr. Sugandh Deshmukh for the Petitioner
Mr. Yuvraj P. Narvankar for Respondent nos. 1 to 3
Mr. S.B. Kalel, A.G.P. for the State

**CORAM: S.V. GANGAPURWALA &
R.N. LADDHA, JJ.**

DATED : SEPTEMBER 29, 2022

P.C.

1 The Petitioner is assailing the transfer order dated 31.07.2021.

2 It is the contention of the Petitioner that Petitioner is transferred from one Junior College on unaided to another Junior College run by the same management on self finance basis. According to the learned counsel, same is detrimental to the interest of the Petitioner. The college, where the Petitioner is working, would be entitled for grant in aid in future, whereas, College on self finance basis would never get grant in aid.

3 Another submission of the learned Counsel for the Petitioner is that transfer is Mid Term, same is not in consonance with Rule 41 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981.

4 The learned Counsel for Respondent nos.1, 2 and 3 submits that transfer of the Petitioner from one Junior College to another Junior College run by the same management is due to administrative exigencies. The post in the College which was granted permission on self finance basis, had become vacant and it was only the Petitioner who could have taught the said subject. It was in such an administrative exigency the Petitioner is required to transfer. There are no malafides in the transfer order. In view of that, this court may not entertain the Writ Petition.

5 We have considered the submissions. The Junior College granted permission on self finance basis will not be entitled for grant in aid in future whereas the Junior College granted permission on non-grant basis would be entitled to grant in aid in a phase wise manner in future, provided all conditions are complied with.

6 In case grant in aid is sanctioned to the Junior College granted

permission on non grant basis, then there are further advantages which the employee may derive such as Defined Contributory Pension Scheme and also the security. In case, Junior College on grant in aid basis has to close down or a post is reduced, the Petitioner can seek absorption under Rule 26 of the MEPS Rules. Moreover, it also appears that transfer is Mid Term Transfer on 31.07.2021. Same may not be permissible under Rule 41 of the MEPS Rules. Mid Term Transfer will have to be for reasons to be recorded.

7 In light of above, impugned transfer order is quashed and set aside.

8 In case proposal seeking approval to the appointment of the Petitioner is not sent, Management may send the said proposal to the Competent Authority for approval.

9 Petitioner may cooperate in submission of the document as may be required.

10 Writ Petition is disposed of. No costs.

(R.N. LADDHA,J.)

(S.V. GANGAPURWALA, J.)