

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION (WP) NO. 2642/2021

Shailesh S/o Vilasprasad Tiwari
 Aged about 51 years, Occu: Service,
 R/o Village Savli, Distt. Chandrapur.

..... PETITIONER

// VERSUS //

1. State of Maharashtra,
 Through its Principal Secretary Rural
 Development & Water Conservation
 Department, Mantralya,
 Mumbai 440 032.

2. Zilla Parishad, Chandrapur,
 Through its Chief Executive Officer,
 having its office at Anchaleshwar
 Gate Road, Bazar Ward,
 Tq. & Distt. Chandrapur.

3. Zilla Parishad Latur, Through
 its Chief Executive Officer,
 having its office at Netaji Nagar,
 Tq. & Distt. Latur, 413 531.

.... RESPONDENT(S)

 Shri Tejas A. Deshpande, Advocate for the petitioner
 Miss. Nivedita P. Mehta, AGP for respondent no. 1/State
 Shri B.N. Jaipurkar, Advocate for respondent no. 2
 Shri S.N. Gaikwad, Advocate for respondent no. 3

CORAM : A.S. CHANDURKAR AND G.A. SANAP, J.J.

DATED : 22/02/2022

ORAL JUDGMENT : (PER:- A. S. CHANDURKAR, J.)

Rule. Rule made returnable forthwith. Heard the learned
 counsel for the parties.

2 The petitioner who is holding the post of Extension Officer
 (Agriculture) at Zilla Parishad, Chandrapur seeks inter-district transfer to

the said post at Zilla Parishad, Latur. Accordingly on 14.03.2015, the petitioner made an application seeking his transfer from Zilla Parishad, Chandrapur to Zilla Parishad, Latur. Zilla Parishad, Chandrapur gave its no-objection to the petitioner's transfer. This was after considering the fact that service of more than six years was rendered by the petitioner at Zilla Parishad, Chandrapur. Thereafter on 07.01.2019, Zilla Parishad, Latur on receipt of the proposal for inter-district transfer issued a communication indicating the commencement of process for absorption of the petitioner with it. Thereafter on 12.02.2019, an order was issued by Zilla Parishad, Latur absorbing the services of the petitioner on the post of Extension Officer (Agriculture). However on 14.02.2019, the petitioner was informed that on verification of the roster points the same had been revised and hence there was no vacant post in the "open category" on which the services of the petitioner could be accommodated. On that count, the petitioner was informed that he could not be accommodated at Zilla Parishad, Latur. Being aggrieved, the said order is under challenge.

3. *Inter alia*, it is submitted by the learned Counsel for the petitioner that the order dated 14.02.2019 has been issued without granting any opportunity of hearing to the petitioner. By the order dated 12.02.2019 Zilla Parishad, Latur had communicated its consent for inter-district transfer of the petitioner on the post of Extension Officer

(Agriculture). By the said communication dated 12.02.2019 rights having been created in favour of the petitioner, the same could not have been taken away without hearing the petitioner.

4. The learned Counsel for the respondent no. 3 has opposed the aforesaid submissions. Firstly, it is submitted that since the impugned order is passed by Zilla Parishad, Latur, this Court lacks territorial jurisdiction to entertain the writ petition. Further, it is submitted that on 12.02.2019, the State Government itself had issued a Government Resolution, as a result of which the roster points were required to be modified by the Zilla Parishad. On examining the case of the petitioner, it was found that there was no vacant post in the “open category” and therefore the order dated 14.02.2019 came to be issued. Since the Zilla Parishad was following the directions of the State Government no illegality could be said to be committed.

5. We have heard the learned Counsel for the parties. On the aspect of territorial jurisdiction we find that though the impugned order has been passed by Zilla Parishad, Latur a part of cause of action has arisen within the jurisdiction of this Bench. This is for the reason that the petitioner is presently serving at Zilla Parishad, Chandrapur. By the order dated 12.02.2019, he was transferred from Chandrapur to Latur. The impugned order has deprived the petitioner of such transfer thus requiring him to continue at Chandrapur. Legal injury has been caused at

Chandrapur. Hence, part of the cause of action has arisen within the jurisdiction of this Bench.

6. It is not in dispute that the order dated 14.02.2019 has been passed without granting any opportunity to the petitioner. On 12.02.2019 by issuing the order of inter-district transfer in favour of the petitioner rights were created in favour of the petitioner. If these rights were to be taken away, an opportunity of being heard ought to have been granted to the petitioner. Same not having been done, the order dated 14.02.2019 is liable to be set aside on that count. Accordingly, we pass the following order:-

- i. Order dated 14.02.2019 passed by the Chief Executive Officer, Zilla Parishad, Latur is set aside.
- ii. If Zilla Parishad, Latur desires to revoke or recall its earlier order dated 12.02.2019, it shall issue prior notice to the petitioner and after granting him an opportunity of hearing take an appropriate decision in the matter. The request as made by the petitioner shall be considered on its own merits without being influenced by any observation in this order.

7. Rule is made absolute in the aforesaid terms with no order as to costs.