

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

23 WRIT PETITION NO.2803 OF 2023

**ASHOK SHANKAR NABDE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND OTHERS**

...

**AND
82 WRIT PETITION NO.2881 OF 2023**

**VIJAYSHRI JANARDHAN KALURE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND OTHERS**

...

**AND
112 WRIT PETITION NO.2922 OF 2023**

**SHANKAR NAGNATH SWAMI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND OTHERS**

...

**Advocate for the Petitioners : Shri R.D. Biradar
AGPs for Respondents 1 and 2/State : Shri S.P. Tiwari and Shri
S.G. Karlekar
Advocate for Respondents 3 and 4 : Shri P.R. Tandale**

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**CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.**

DATE :- 13th March, 2023

Per Court :-

1. We have considered the submissions of the learned Advocates for the petitioners and the respondents.

2. These petitions involve Intra-District transfer. The six petitioners in these Writ Petitions desire to apply for transfers based on the policy of 'couple convenience', which prescribed that a couple will not be posted beyond 30 kilometers from each other. All these petitioners make a solemn statement that they have not availed of a benefit of couple convenience transfers in the 3 years preceding the filing of this petition.

3. The learned Advocate representing the Zilla Parishad submits on the basis of the Government Circular dated 21.02.2019 that these petitioners can avail the benefits of couple convenience for the first time, irrespective of the period for which they have been working at any place. Condition of working for three years at a particular place would apply only if such applicant has taken benefit of 'couple convenience'. In short, once a posting is allotted to an applicant on the basis of couple convenience, such applicant/beneficiary cannot again seek a transfer within three years.

4. He, however, points out a communication issued by the Deputy Secretary, Maharashtra State, dated 23.11.2022 to all the CEOs of the Zilla Parishads in Maharashtra, wherein, it is stated that those teachers, who have worked for three years or more in continuous service at a particular location, would be eligible to apply for transfer, if they fall in the special teachers part 1 and special teachers Part 2, category. Special Teachers Part 2 is with regard to couple convenience.

5. In our view, if the said communication is to be read in the backdrop of the Government Circular dated 21.02.2019, which enables the petitioners to seek transfer on the basis of couple convenience for the first time, the condition of working for three years at a particular place when benefit of couple convenience policy has not been derived, would not be applicable.

6. All these petitioners have made a statement before the Court that none of them have availed a transfer on the basis of the couple convenience in the three years preceding the date of filing of the petition. None of the parties have pointed out any such provision to us which states that a person cannot avail of benefit of transfer for couple convenience for the first time, if he

has not worked for a maximum period of three years prior to seeking such transfer.

7. In view of the above, the petitioners would be eligible to apply for transfer on the basis of couple convenience, since they have not availed of such benefit in the three years preceding the date of filing of the petition. However, as the students in the school wherein the petitioners are imparting education have started their academic year 2022-2023 from June, 2022, it would be inappropriate to permit transfer of the petitioners at this stage when the students would be appearing for their examination in March/April 2023. Shifting teachers at this stage and introducing new teachers when the students' exams are going in the coming two months, is bound to disturb the curriculum.

8. In view of the above, **these Writ Petitions are partly allowed.**

9. The concerned authority would entertain the applications of the petitioners provided the applications are made online after the portal is opened by the Government. Their request for transfer on the basis of couple convenience would be considered for the academic year June 2023 to April 2024. All

other rules and policy applicable to such cases would be duly considered while deciding the claims of these petitioners on their merits.

kps (SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)