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

905 WRIT PETITION NO.3216 OF 2023

Jayshri Babanrao Patil,
Age: 50 years, Occ. Service,
R/o At Post Jamkhed, Tq. Jamkhed,
Dist. : Ahmednagar

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
School Education and Sports Department,
Mantralaya, Mumbai
2. The Secretary,
Rural Development and Panchayat
Raj Department,
Mantralaya, Mumbai
3. The Deputy Director of Education (Primary),
Pune Region,
Pune
4. The Divisional Commissioner,
Nashik Division, Nashik
5. The Chief Executive Officer,
Zilla Parishad, Ahmednagar
6. The Education Officer (Primary),
Zilla Parishad, Ahmednagar

...RESPONDENTS

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Mr Amit S. Savale, Advocate for Petitioner;
Mr S. K. Tambe, A.G.P. for Respondent Nos.1 to 4
Mr A. D. Aghav, Advocate for Respondent Nos.5 & 6

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

DATE : 24th March, 2023

ORAL JUDGMENT (PER : Ravindra V. Ghuge, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner has put forth prayer clauses (A), (B) and (C), which read as under :-

A] By issuing writ of mandamus or any other appropriate writ, order or direction in like nature the respondents no. 1 to 5 may be directed to transfer the petitioner to Zilla Parishad Primary School Marathi Girls at Jamkhed and issue appropriate orders for the said purpose.

B] Alternatively, by issuing writ of mandamus or any other appropriate writ, order or direction in like nature the Respondents no.1 to 5 may be directed to consider and allow the petitioner to seek transfer in the Intra District Teacher Transfer Process 2023 which is likely to be commenced in the April-May 2023 and issue appropriate orders for the said purpose.

C] Pending hearing and final disposal of this writ petition to restrain the Respondents No. 4 and 5 from issuing transfer order of the petitioner and allow the petitioner to continue on the present posting which is at Zilla Parishad Primary School, Shramjeevi Vasahat Jamkhed or transfer her to the Zilla Parishad Primary

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School Marathi Girls at Jamkhed and issue appropriate orders for the said purpose.”

3. This is a peculiar case, wherein a little casualness on the part of the Petitioner/Teacher in selecting the Serial Numbers under the UDISE (Unified District Information System for Education), has caused grave inconvenience to her. In spite of being desirous of choosing the Girls School in Jamkhed under the Ahmednagar Zilla Parishad, she punched in a wrong Serial Number and now has been posted in the Girls School at Kharda, Tq. Jamkhed, which is 23 kms. away from her home. The distance 23 kms. is not at all significant, but it gains significance in this matter on account of the illness of the husband of the Petitioner, who is certified by the Medical Superintendent of the Sasoon General Hospital, Pune, as being a patient of “k/c/o T2DM/HTN with h/o Recurrent TIA F/by left ACA stenting on 21-02-2012.”

4. Looking at the medical report and having consulted the In-charge Doctor with the High Court Medical Dispensary, we are informed that the husband of the petitioner is suffering from *Type 2 Diabetes Mellitus/Hypertension with history of Recurrent*

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Transient ischemic attack, followed by left Anterior Cerebral Artery.

5. There is no dispute that, the Petitioner has wrongly typed the UDISE Code number of the School. The learned Advocate for the Zilla Parishad informs that, he has received a communication dated 23/03/2023 from Shri. Bhaskar Patil, Education Officer (Primary), Zilla Parishad, Ahmednagar, informing him that the choice expressed by the Petitioner was accepted and she has now been posted in the Zilla Parishad Girls School at Kharda.

6. Having considered the submissions of the learned Advocates for the respective sides, there were two options before us in view of the Clause 5.9 of the Government Resolution dated 07/04/2021, issued by the Rural Development Department. The First option is that the Petitioner be continued at the present posting, on deputation. However, her absence at Kharda will create a vacancy by her deputation. The entire transfers of the eligible and due candidates have been completed after a long drawn process. A transfer of any other candidate would create unnecessary litigation. The second option is, that the Petitioner

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should work at Kharda, so that the post would not lie vacant, for one academic year and as a special case, without laying down any precedent, we would permit her to reapply for transfer through the online portal system for the academic year 2024-2025. The Petitioner is agreeable to the second option, since the first option would create complications.

7. In view of the above, this petition is disposed off with the following directions :-

(a) The Petitioner shall join the Girls School at Kharda for the academic year 2023-2024 and perform her duties diligently. We would not appreciate if she seeks frequent leave on the pretext of her husband's illness.

(b) With the above direction, the Petitioner would be eligible to seek a transfer through the online portal system for the academic year 2024-2025 as and when the Portal is opened for the said transfer, which is likely to begin in May 2023 for effecting transfers for the academic years in 2024-2025.

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(c) As a special case, the Petitioner's posting at Kharda would be for one academic year.

(d) Since this order is passed in peculiar facts and circumstances of the case, considering the grave and serious illness of the Petitioner's husband, coupled with a blunder committed by her, it shall not be treated as a precedent and would not be cited in any proceeding.

8. Rule is discharged.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

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