

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

95 WRIT PETITION NO.4028 OF 2023

VIJAYA DNYANESHWAR PAWAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioners : Ms. Aarti A. Bhagwat h/f Mr. G.K.
Kshirsagar
AGP for Respondent No.1: Mr. V.M. Kagne
Advocate for Respondent No.2 : Mr. R.S. Pawar
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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 12th APRIL, 2023.**

PER COURT :-

1. Both the Petitioners are lady teachers. The Government Resolutions dated 15.02.2018 and 07.04.2021, prohibit transfer of all ladies to the difficult areas. The entire transfer activities are off-loaded to an IT Company. They introduced a 'Teacher Transfer Management System' (TTMS), for and on behalf of the Rural Development Department, Government of Maharashtra. Apparently, the Government Resolutions dated 15.02.2018 and 07.04.2021, were not made known to the IT company or may be the software needs to be upgraded.

2. In identical circumstances, while declining to stay such transfers, due to the cascading effect that would be created by the stay orders, we have quoted in paragraphs 3 to 9 in our order dated

28.3.2023, passed in Writ Petition No. 3379 of 2023 (Gayabai Maruti Shejwal and others vs. State of Maharashtra and another) and other connected matters, as under:-

“3. Despite there being the Teacher Transfer Management System, which involves minimal human interference, the list of transferees is published wherein, the names of employees, who are ladies and 53 years of age, are included. The Government Resolution dated 07.04.2021 prohibits transfer of such employees. Transferring such employees, who fall in the special teachers category part-I or it's various parts, to the difficult areas, is contrary to the Government Resolution dated 07.04.2021, is the grievance voiced before us.

4. The learned Advocate representing the Respondent/ Zilla Parishad points out clause 2.4.3 of the Government Resolution dated 07.04.2021, which permits the aggrieved person to lodge an objection on the proposed transfer list within five days of uploading of the tentative list on the website. He further points out clause 5.10.1, which enables the aggrieved person to question the transfer by approaching the Chief Executive Officer. All these Petitioners have directly approached this Court.

5. The learned Senior Advocate is right in contending that there is no prohibition to approach this Court under Article 226 of the Constitution of India, notwithstanding the clauses under the said Government Resolution permitting redressal of grievances of such Petitioners.

6. We are of the view that by granting an ad-interim protection in the nature of directing the Zilla Parishad not to transfer the Petitioners, is likely to create more difficulties. The Solution would be worse than the problem itself. Staying such transfers by judicial orders, would virtually bring the entire transfer mechanism to a standstill thereby disturbing the planning of transfers made by the concerned authorities in view of the Teacher Transfer Management System. An anomalous situation would be created wherein, the Petitioners, who are under protective orders, would remain at the places where they are and the places where they are to be transferred, would remain vacant. There appears to be wisdom behind introducing the Government Resolution dated 07.04.2021, which enables the authorities to consider the representations and grievances and regulate the transfers by considering such grievances and by resorting to the mechanism of fine tuning, at the institutional level.

7. The learned Senior Advocate and the learned Advocate appearing for the Petitioners, submit on instructions, that the Zilla Parishad should decide the representations within a time frame.

8. The learned Advocate for the Zilla Parishad submits that the representations would be decided within the timeline as may be directed by this Court. In any case, the transfer orders would be issued only after the end of the academic year, which would be anytime after 30th April, 2023.

9. In view of the above, **these Writ Petitions are disposed off** with the following directions:-

(a) *The Petitioners would tender their individual representations to the Chief Executive Officer, Zilla Parishad, on or before 31.03.2023, in physical form.*

(b) *The Chief Executive Officer would consider the representations of these Petitioners and arrive at a decision, on or before 10.04.2023.*

(c) *If the grievance of the Petitioners is still not redressed and if any adverse order is passed, they can approach the Additional Divisional Commissioner, Aurangabad, on or before 15.04.2023. The said Authority would decide such appeals, on or before 21.04.2023.*

(d) *We make it clear that none of these Authorities would seek extension of time even by a day.”*

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

(a) The Petitioners would tender their individual representations to the Chief Executive Officer, Zilla Parishad, on or before 21.04.2023, in physical form.

(b) The Chief Executive Officer would consider the representations of these Petitioners and arrive at a decision, on or before 05.05.2023.

(c) If the grievance of the Petitioners is still not redressed and if any adverse order is passed, they can approach the Additional Divisional Commissioner, of their respective division, on or before 15.05.2023. The said Authority would decide such appeals, on or before 31.05.2023.

(d) We make it clear that none of these Authorities would seek extension of time even by a day.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

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