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

926 WRIT PETITION NO.485 OF 2021

**SATISH BABURAO BHAGWAT
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

....

Mr S. S. Thombre, Advocate for petitioner;
Mr S. K. Tambe, A.G.P. for respondent No.1
Mr S. S. Tope, Advocate for respondent No.2

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

DATE : 10th February, 2023

PER COURT:

1. The petitioner has put forth prayer clauses (B) and (C), which read as under :-

“(B) By issuing a writ of mandamus or any other writ order or direction in the like nature, direct Respondent no. 2 be directed to allow the petitioner to join with Zilla Parishad, Jalna in terms of the policy of the Government in respect of Inter-district transfer, and for that purpose issue necessary orders;

(C) Pending hearing and final disposal of this writ petition, direct Respondent no. 2 to allow the petitioner to join with Zilla Parishad, Jalna in terms of the policy of the Government in respect of Inter-district transfer, and for that purpose issue necessary orders;”

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2. The undisputed factors are as follows :-

- (a) The petitioner was appointed as an 'Assistant Teacher' with the Zilla Parishad, Raigad on 21/09/2011.
- (b) The petitioner moved an online application in terms of the Government Resolution dated 24/04/2017, praying for inter-district transfer to the Jalna Zilla Parishad.
- (c) As the petitioner was not being considered, he preferred Writ Petition (St.) No.9756/2020 in March 2020.
- (d) The Jalna Zilla Parishad informed several Zilla Parishads, including the Raigad Zilla Parishad, not to relieve candidates who have sought transfers to the Jalna Zilla Parishad, vide its letter dated 13/08/2020.
- (e) The Chief Executive Officer, Zilla Parishad, Raigad-Alibag, relieved the petitioner on 23/10/2020 so as to enable him to join at the Jalna Zilla Parishad.
- (f) Since the Jalna Zilla Parishad did not have any vacancy, they did not allow the petitioner to join the duties

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and since then, the petitioner is without any assignment and is without salary.

3. The petitioner relies upon an order passed by this Court (Coram:- S. V. Gangapurwala and A. M. Dhavale, JJ.), dated 19/03/2019, in Writ Petition No.10814/2018, filed by Vijaykumar Tarachand Rathod Vs. State of Maharashtra and another, with connected writ petitions, and observed that, because of the anomalous situation, the petitioners are “*neither here nor there*”. The petitioner relies on the said order dated 19/03/2019, wherein this Court has recorded that, the petitioners were relieved from their parent Zilla Parishad and could not join at the place of transfer, as the said Zilla Parishad took a stand that there is no vacancy. This Court, then observed in Vijaykumar Tarachand Rathod (supra), in paragraph No.7, as under :-

“7. In view of the fact that orders of transfer are still in force, the Zilla Parishad Beed shall allow the petitioners to work at their transferred placed i.e. the place of transfer as per transfer orders and if at all at the said place no posts are available, then at any other place in Beed Zilla Parishad. The State Government shall take effective steps to resolve these anomalous position. The petitioners would be allowed to join the duties subject to the decision that would be taken by the Government.”

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4. The learned Advocate for the petitioner relies upon a recent Government Resolution dated 02/12/2022, wherein the State of Maharashtra, considering the anomalous situation and the insistence of parent Zilla Parishads, not to relieve the candidates, whose applications for inter-district transfers have been accepted, or to permit them to join at the place of transfer. Clause 9 of the said Government Resolution reads as under :-

“९) सन २०१७ पासून शासनामार्फत विकसित करण्यात आलेल्या संगणकीय प्रणालीद्वारे राबविण्यात आलेल्या बदली प्रक्रियेतून अशा शिक्षकांच्या बदल्या झालेल्या असल्यामुळे, अशा शिक्षकांना कार्यरत जिल्हा परिषदेने कार्यमुक्त करणे, तसेच समोरील जिल्हा परिषदेने हजर करून घेणे क्रमप्राप्त आहे. त्यामुळे अशा शिक्षकांना कार्यमुक्त न केल्यामुळे, तसेच हजर करून न घेतल्यामुळे काही न्यायालयीन प्रकरण उद्भवल्यास त्याची सर्वस्वी जबाबदारी संबंधित जिल्हा परिषदेची राहिल.”

5. The learned Advocate appearing on behalf of the Zilla Parishad submits that, the petitioner, who belongs to the NT-C category, cannot be accommodated, as there are 41 teachers from the NT-C category, who are surplus. He, further points out that, 171 candidates belonging to NT-D category, have been rendered surplus. There is not a single place, where the petitioner can be accommodated or posted under the Jalna Zilla Parishad.

6. The learned Advocate for the petitioner submits that, as this Court (Coram : S. V. Gangapurwala and A. M. Dhavale, JJ.) has adopted the course vide order dated 19/03/2019 in Vijaykumar Tarachand Rathod (supra), that this petitioner may also be treated similarly as directed in paragraph No.7 of the said order.

7. It is quite obvious from the peculiar facts of the case that, because of lack of co-ordination between the Zilla Parishads, some candidates have been relieved from their parent Zilla Parishads and they were unable to join at the place of transfer on account of there being no vacancies. In Vijaykumar Tarachand Rathod (supra), this Court had directed the State Government to take effective steps to resolve such anomalous position. We do not find any such steps taken, none that we know of.

8. The learned Advocate for the Zilla Parishad cites an order dated 11/08/2021, passed by this Court (Coram : S. V. Gangapurwala and R. M. Laddha, JJ.), in Writ Petition No.12322/2019, filed by Digambar Shivajirao Solankar and others Vs. State of Maharashtra and others, wherein this Court has recorded that, as and when vacancy would arise with the Zilla

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Parishads, the petitioners would be accommodated from their respective categories.

9. The learned Advocate for the petitioner submits on instructions that, the petitioner is willing to work anywhere, as may be directed by the Zilla Parishad. He is without salary since October 2020.

10. In view of the above, this petition is disposed off.

11. Let the Jalna Zilla Parishad abide by Clause 9 of the Government Resolution dated 02/12/2022, which seems to have been introduced by the Rural Development Department to deal with the anomaly of such teachers, who have been transferred, through the online process, inter-District, and have not been granted any posting at the place of transfer. The Zilla Parishad is at liberty to seek guidance from the Government as regards the policy to be evolved and the procedure to be followed for resolving the said anomalous situation. As directed earlier in Vijaykumar Tarachand Rathod (supra), the petitioner would be allowed to join the duties, subject to the decision that would be taken by the Government or by the Zilla Parishad, in consultation with the Government, since the petitioner will be allowed to join

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and he would earn his salary for the said period. In the event of any unpaid salary for any particular period, the petitioner is at liberty to address the Zilla Parishad with a representation and the Zilla Parishad would consider the same with due guidance from the State Government.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

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