

Digitally
signed by
TRUSHHA
TUSHAR
MOHITE
Date:
2023.03.01
15:45:16
+0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4300 OF 2021

Leena Sachin Pawar

..... Petitioner

Vs.

State of Maharashtra and Ors.

..... Respondents

Mr.S.R.Nargolkar i/b Mr.Arjun Kadam for the Petitioner
Ms.Nisha M. Mehra A.G.P for the State / Respondent nos.1 and 2
Mr.Ashok Misal for Respondent nos.3 and 4

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : FEBRUARY 28, 2023

P.C.

1 The Petitioner is assailing the order of transfer.

2 Mr.Nargolkar, the learned counsel for the Petitioner submits that the Petitioner is the sister of a mentally disabled child and has to maintain the mentally disabled child. The entry of the said fact is also recorded in the service book of the Petitioner. The Petitioner is entitled for exemption from transfer as per the Government Resolution dated 15.05.2014.

3 The learned counsel for the Petitioner submits that in view of the impugned transfer order, the Petitioner is transferred at the distance of 30 kms. The brother of the Petitioner will have to travel 30 kms. to attend the school. The present school is attended by

brother of the Petitioner who is mentally retarded since the age of 10. The learned counsel for the respondents submits that the petitioner has alternate remedy. He also submits that the Petitioner on his own volition has given a choice during the counseling for the posting. The learned counsel further submits that the Petitioner has a mother and sister who can look after the mentally retarded brother.

4 We have considered the submissions. This court under order dated 18.08.2021 had directed the respondents not to give effect to the order of transfer. The said interim order is operating since then. Naturally, the Respondents have to consider all the relevant aspects of the matter. As it is submitted that the place where the Petitioner is transferred does not have school for special child in its nearby vicinity and considering the fact that interim order is operating for more than 1 ½ year, we set aside the order of transfer.

5 If the Respondents decide to transfer the Petitioner during the next general transfers then Respondents shall consider all the relevant aspects of the matter including G.R.

6 With these observations, Writ Petition is disposed of.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)