



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3465 OF 2024

Smt. Chanda Atmaram Gaikwad .. Petitioner

versus

The State of Maharashtra & others .. Respondents

Mr. H. U. Dhage, Advocate for the Petitioner.

Mr. R. K. Ingole, AGP for the State.

Mr. S. B. Parnere, Advocate for Respondent Nos. 3 and 4.

**CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.**

DATE : 3rd APRIL, 2024.

PER COURT :

1. In this Petition, the grievance of the Petitioner is that she is above 53 years of age. She is covered by Government Resolution dated 7th April, 2021 introduced by the State of Maharashtra specifically for regulating the transfers. There is a 'Teacher Transfer Management System' (TTMS) developed by the Government of Maharashtra, Rural Development Department. The applications for transfer are permitted online. Options are to be indicated online. List of transferees is to be published online.

2. 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 those who are above 53 years of age, are included to work in the difficult areas. The Government Resolution dated 7th April, 2024 prohibits transfer of such employees. Transferring such employees, who fall in the special teachers category Part I or its various parts, to the difficult areas, is contrary to the Government Resolution dated 7th April, 2021, is the grievance voiced before us.

3. The learned Advocate representing the Respondent/Zilla Parishad points out clause 2.4.3 of the Government Resolution dated 7th April, 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. This Petitioner has directly approached this Court.

4. The learned Advocate for the Petitioner 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 grievance of such Petitioner.

5. We are of the view that by granting an ad-interim protection in the nature of directing the Zilla Parishad not to transfer the Petitioner, 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 Petitioner, who is under a protective order, would remain at the place where she is and the place where she is to be transferred, would remain vacant. There appears to be wisdom behind introducing the Government Resolution dated 7th April, 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.

6. The learned Advocate for the Petitioner, submits on instructions, that the Zilla Parishad should decide the representation within a time frame.

7. The learned Advocate for the Zilla Parishad submits that the representation 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, 2024**.

8. In view of the above, **this Writ Petition is disposed off** with the following directions :

(a) The Petitioner would tender her individual representation to the Chief Executive Officer, Zilla Parishad, within 15 days, in physical form.

(b) The Chief Executive Officer would consider the representation of the Petitioner and arrive at a decision, within 15 days thereafter.

(c) If the grievance of the Petitioner is still not redressed and if any adverse order is passed, she can approach the Additional Divisional Commissioner, Aurangabad, within

the statutory period of limitation. The said Authority would decide such appeal, within 45 days.

(R. M. JOSHI)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

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