

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5657 OF 2024

Smt.Ratnamala Jamrao Mali ... Petitioner

Versus

Vinod Daulat Khairnar and Others ... Respondents

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Mr. Anilkumar K. Patil for the Petitioner.

Mr.Akhil Kupade with Mr.Swapnil R. Jadhav for Respondent No.1.

Ms.Ashwini A. Purav, AGP for the Respondent -State.

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**CORAM : NITIN JAMDAR AND
M.M.SATHAYE, JJ.**

DATE : 19 APRIL 2024

P.C. :

. Heard the learned Counsel for the parties.

2. The Petitioner has challenged the order dated 13 March 2024 passed by Respondent No. 8 – the Section Officer, Secondary Education, Mantralaya, Mumbai referring to communication dated 24 January 2024 of the Divisional Deputy Director of Education, Nashik. By this communication, transfer of the Petitioner by order dated 7 February 2024 is cancelled. This order dated 7 February 2024 interchanges the postings of the Petitioner and Respondent No.1 so also their employers have been exchanged. Both, the Petitioner and Respondent No.1 are working under different managements.

3. The learned Counsel for the Petitioner made a grievance that the impugned order is passed without giving any opportunity and that the earlier order of transfer was made with consent of Respondent No.1 which consent could not have been withdrawn. The learned Counsel for Respondent No.1 submitted that there is no statutory provision for such an exchange, particularly when Respondent No.1 is raising an objection.

4. We have not been shown any statutory provision, except Rule 41 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 which deals with transfer within the management. In these circumstances, even assuming that the impugned order is set aside, it will revive the order of 7 February 2024, which *prima facie* does not have any statutory backing.

5. While we defer the hearing of this petition to **13 June 2024** to enable the Petitioner to give notice to the unrepresented Respondents, we decline to grant any interim order. The Petitioner and Respondent No.1 will report their earlier posts, subject to outcome of this petition.

6. All the Respondents to file their reply before the next date.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)