



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.262 OF 2024

Ranjana D/o. Muneshwarrao
Dhokane, Aged about 39 years,
Occ:Teacher, R/o. C/o Dr Nitin
Deshmukh, Harihar Nagar, Dharni,
Taluka Dharni, District Amravati

.. Petitioner

Versus

1. State of Maharashtra,
Through its Secretary, Department
of Rural Development, Mantralay,
Mumbai – 32
2. Zilla Parishad Amravati,
Through its Chief Executive Officer,
Amravati.
3. Education Officer (Primary),
Zilla Parishad, Amravati
4. Committee for Inter District Teacher
Transfer Procedure, through its
Chairman, Chief Executive Officer,
Zilla Parishad, Amravati.

.. Respondents

Mr. S.S.Dhengale, Advocate for petitioner.

Mrs.Kalyani Deshpande, Assistant Government Pleader
for respondent No.1.

Mr. Sunil Shinde, Advocate for respondent Nos.2 & 3.

CORAM : NITIN W. SAMBRE AND
ABHAY J. MANTRI, JJ.

DATED : MARCH 15, 2024

ORAL JUDGMENT (Per : N.W.SAMBRE, J.)

Rule. Rule is made returnable forthwith. By consent of learned counsel appearing for the parties, the petition is taken up for final disposal at this stage.

(2) The petitioner has come out before this Court with following prayer :-

"(i) Call the petitioner for counselling at par with the petitioners in Writ Petition No.545/2023 (Annexure-6) and Writ Petition No.5357/2023, (Annexure-5) thereby transferring the petitioner from difficult area to plain area in any of the Panchayat Samiti within Amravati District in available vacancies.

(ii) Direct the Respondent No.2 Chief Executive Officer Zilla Parishad Amravati and Respondent No.3 Education Officer Amravati to transfer the petitioner from difficult area to plain area as per Government Resolution dated 15/02/2018 (Annexure-1) and 07/04/2021 (Annexure-2) being lady teacher."

(3) The facts necessary for deciding the present petition are as under :-

The petitioner is working as 'Assistant Teacher' with respondent No.2 – Zilla Parishad and her services are supervised by respondent No.3 – Education Officer. On 12/06/2018, pursuant to the transfer order issued to the petitioner, she was transferred from Zilla Parishad Primary School Pimpri, Chandur Bazar to Zilla Parishad Upper Primary School, Kakarmal in Dharni Taluka. In compliance with the said transfer order the petitioner has resumed her service in Dharni Taluka at Kakarmal, which is pre-dominantly a tribal area.

(4) At the time of aforesaid transfer, the policy as was existing was governed by a Government Resolution(G.R.) dated

15/02/2018. The condition No.(1) of said G.R. provides that the Zilla Parishad shall declare the difficult terrain, considering the location of the schools if it is remotely located and it is difficult for the people to commute at such place. Accordingly, considering the remote location of such schools, the difficulty faced in commutation and also difficulty in establishing communication, it is resolved that such schools be identified and female staff be not posted to such schools located and identified as in difficult terrain.

(5) In compliance with the same, the respondent No.2 – Zilla Parishad has identified the place Kakarmal to be a difficult terrain as can be noticed from the communication dated 07/03/2022, issued by the respondent No.3 – Education Officer to the Block Education Officer.

(6) The petitioner thereafter, completed her tenure under the transfer order dated 12/06/2018, which is admittedly of three years in the Academic Session-2021 and was due for transfer from the Zilla Parishad, Upper Primary School, Kakarmal, Dharni to a primary school, which is located in plain terrain in the very same district. Unfortunately, the petitioner is informed to be continued at said difficult terrain for another three years i.e. even today, as the petitioner's request for transfer from difficult terrain is not considered and dealt with by the respondents. As a sequel of above, the petitioner

has completed six years of tenure in spite of the fact that she being a female teacher posted at remote and difficult terrain.

(7) The State Government thereafter, framed a Scheme as reflected in G.R. dated 07/04/2021 and has taken over the issue of completing formalities for effecting transfers of Teachers in Zilla Parishad to itself.

(8) In view of change in policy, though the petitioner's protection as was ordered under the G.R. dated 15/02/2018, seems to be in operation, still contrary to the said Government Resolution the petitioner is directed to be continued even today on the post of Assistant Teacher at a remote and difficult terrain.

(9) Perusal of the appreciation of the aforesaid factual matrix reflects that not only the respondent State, but also the respondent Zilla Parishad is completely non-sensitive to the sufferings of a female teacher, who is uninterruptedly serving in difficult terrain area for last six year.

(10) Mr.Shinde, learned counsel for the respondent Zilla Parishad has drawn support from the policy of the State Government, so as to claim that it is only after the teachers are available for posting to difficult terrain, the petitioner's prayer can be considered for transferring her to the plain terrain. The statement cannot be accepted

as the same is contrary to the very Scheme reflected in the G.R. dated 15/02/2018 by which (a) it is provided not to transfer or post female teacher in difficult terrain (b) fix tenure is prescribed for such transfers who have choice of posting at regular terrain.

(11) The administrative difficulty, if any, faced by the Zilla Parishad are required to be taken care of by themselves, as for their inaction the petitioner cannot be made to suffer in perpetuity as could be inferred from the observations made in the foregoing paragraphs.

(12) That being so, we deem it appropriate to allow the present writ petition. We direct the State Government, so also the respondent Zilla Parishad to consider the prayer of the petitioner for transferring her from difficult terrain to plain terrain from the coming Academic Session i.e. 2024-2025.

(13) Needless to clarify, the petitioner is not required to give fresh request letter, however, it shall be open for her to furnish the options considering the vacancies available.

(14) The petition as such, stands allowed.

(15) Rule is made absolute in the above terms.

[ABHAY J. MANTRI, J.]

[NITIN W. SAMBRE, J.]