



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

WRIT PETITION NO. 1826/2024

(SAFIYA BEGUM RUSTAM KHAN **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri P.S. Kshirsagar, counsel for the petitioner.

Shri D.P.Thakare, Additional Government Pleader for the respondent nos.1 and 2.

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

DATE : MARCH 15, 2024

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Heard the learned counsel for the parties.

2. The petitioner, a specially abled person, was appointed as an Assistant Teacher with respondent no.3-Umarkhed Municipal Council. As there was a provision to have transfer from one Municipal Council to another at the relevant time, the petitioner applied for transfer from respondent no.3-Umarkhed Municipal Council to respondent no.4-Pandharkawda Municipal Council based on the disability certificate. Such application appears to have been preferred on June 19, 2019 to respondent no.3-Umarkhed Municipal Council. Respondent no.4-Pandharkawda Municipal Council accordingly issued 'no objection' to such transfer on August 07, 2019. Based on above, the proposal was forwarded to the respondent no.2 on September 08, 2009 by respondent no.3-Umarkhed Municipal Council to take a decision on the issue of transfer.

3. It appears that the Director of Education (Primary) issued a communication on March 10, 2021 in relation to the transfer of services of the petitioner thereby directing action to be taken in accordance with the Government Resolution dated February 16, 2021. Clause 10 of the said Government Resolution prohibits such intra-district transfer of an employee. As such, it appears that the respondents are yet to take a decision in the matter of effecting transfer of the petitioner.

4. The fact remains that the Government Resolution dated February 16, 2021 which puts an embargo on the intra-district transfer is subsequent to the application made by the petitioner for transfer. The said request was duly processed by both, respondent no.3-Umarkhed Municipal Council and respondent no.4-Pandharkawda Municipal Council. In the aforesaid background, it was expected of the respondents to take a decision on the request application of the petitioner by considering that the Government Resolution dated February 16, 2021 was not governing the field as the transfer application of the petitioner was processed prior in point of time.

5. That being so, we dispose of the writ petition by directing the respondents to take a decision on the transfer application of the petitioner without taking recourse to the Government Resolution dated February 16, 2021 as the aforesaid Government Resolution is prospective and not retrospective. The decision be taken with a period of three months from today.

6. With aforesaid observations, the writ petition is disposed of. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)