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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2665/2024**

BABITA KUMARI

..... Petitioner

Through: Ms. Malaya Kumar Chand, Advocate.

versus

KENDRIYA VIDYALAYA SANGATHAN & ANR.

..... Respondent

Through: Mr. S.Rajappa, Advocate (through
video-conferencing)

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

% **22.02.2024**

CM APPL. 10905/2024 -Ex.

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 2665/2024 and CM APPL. 10904/2024 -Int. dir.

3. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 20.09.2023 passed by the learned Central Administrative Tribunal in O.A. No. 2865/2023 insofar as it does not grant any interim relief to her.
4. Learned counsel for the petitioner submits that vide order 06.09.2023 assailed before the Tribunal, the petitioner has been transferred from Kendriya Vidyalaya, Dwarka Sector 12, Delhi to Kendriya Vidyalaya, Rajampalli, Andhra Pradesh. He submits that it is the own case of the



respondents that the transfer policy pursuant whereto the aforesaid transfer order was issued is being recalled and a fresh transfer policy has been framed and placed before the Hon'ble Apex Court in ***SLP (C) No. 24825 / 2023 titled Kendriya Vidyalaya and Ors v. Union of India***. He, therefore, contends that since the fresh transfer policy is yet to be approved by the Hon'ble Apex Court, the petitioner be permitted to continue to work at her present place of posting in Delhi, till a fresh transfer order is issued in accordance with the new transfer policy, which is pending consideration before the Hon'ble Apex Court.

5. Issue notice. Mr. S. Rajappa, learned counsel for the respondent accepts notice and vehemently opposes the petition. While conceding that the policy under which the impugned transfer order 06.09.2023 was issued is likely to be withdrawn on account of a new policy having been framed, he prays that hearing be deferred to await the decision of the Hon'ble Apex Court in the aforesaid matter. He, hands over, a copy of respondent's affidavit along with a copy of the draft transfer policy as filed before the Apex Court. He, therefore, prays that no interim orders be passed at this stage.

6. Having considered the submissions of the learned counsel for the parties, we find that the transfer policy whereunder, the petitioner was transferred has already been recalled by the respondents and a new transfer policy has been already placed before the Apex Court. As per the respondents, once the new policy is approved, fresh options will be given to all employees who were transferred under the earlier policy. We are, therefore, of the considered view that when the very impugned transfer order itself is likely to be withdrawn, it would be in the interest of justice that the



petitioner is, in the meanwhile, permitted to render their services at Delhi itself. Taking into account that the petitioner is a qualified teacher who has been rendering service in Delhi for the last many years, it would be in the interest of students as well if, till a final decision is taken on the new policy, the petitioner is permitted to render service in her existing posting at Delhi. The balance of convenience also lies in favour of the petitioner and against the respondents.

7. The writ petition is, accordingly, allowed by directing the respondents to permit the petitioner to re-join the present place of posting i.e., Kendriya Vidyalaya, Dwarka Sector-12, Delhi.

8. It is, however, made clear that this order will be subject to any order as may be passed by the Hon'ble Apex Court in SLP (C) No. 24825/2023 and the petitioner's pending O.A before the learned Tribunal. Needless to state, once the Hon'ble Apex Court passes any order on the new transfer policy, the petitioner will be governed by the said order and, this order will, thereafter, automatically, stand vacated.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

FEBRUARY 22, 2024