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

+ W.P.(C) 2854/2024

JYOTSNA KAUSHIK

..... Petitioner

Through: Mr. Malaya Kumar Chand, Mr.
Shivansh Chauhan, Advocates along
with petitioner in person.

versus

KENDRIYA VIDYALAYA SANGATHAN & ANR. Respondents

Through: Mr. S.Rajappa and Mr. R.
Gowrishankar, Advocates (through
video-conferencing)

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

27.02.2024

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CM APPL. 11763/2024 (Ex.)

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

W.P.(C) 2854/2024 & CM APPL. 11762/2024 (Int. Dir.)

3. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 04.10.2023 passed by the learned Central Administrative Tribunal in O. A. No. 3028/2023 insofar as it does not grant any interim relief to the petitioner.
4. Learned counsel for the petitioner submits that even though before the learned Tribunal, the petitioner had prayed for stay of the



impugned transfer order dated 06.09.2023, the learned Tribunal has while issuing the notice in the original application only directed that no coercive steps be taken against the petitioner for not joining the new place of posting, i.e., Kendriya Vidyalaya, Sulur, Tamil Nadu. By placing reliance on an order passed by this Court in W. P. (C) 1977/2024 titled ***Jyoti v. Kendriya Vidyalaya Sangathan & Ors.***, he submits that this Court has, in similar petition pertaining to similar transfer orders, directed the respondent therein to permit the petitioner to rejoin at her place of posting in Delhi itself so that a holistic decision can be taken after the matter is finally adjudicated by the Apex Court.

5. Issue notice. Mr. S. Rajappa, learned counsel for the respondents accepts notice and vehemently opposes the petition by contending that the petitioner ought to have approached the learned Tribunal to seek this relief. He submits that the petitioner has herself sought an adjournment before the learned Tribunal on 12.02.2024 with a prayer that the matter be adjourned to await the outcome of the pending proceedings before the Apex Court in ***SLP (C) No. 24825 / 2023 titled Kendriya Vidyalaya and Ors v. Union of India.***

6. Having considered the submissions of the learned counsel for the parties, even though we find that the learned counsel for the respondents is correct in urging that the petitioner has herself, on the last date, sought an adjournment before the learned Tribunal on account of the pending proceedings before the Apex Court, we are, in the peculiar facts and circumstances of the present case, inclined to grant the same interim relief to the petitioner as granted to the



petitioner in W.P. (C) 1977/2024, as we find that though the petitioner had sought this interim relief before the learned Tribunal, the same was not favourably considered by it.

7. As we are inclined to allow the present petition in terms of the order passed in W.P.(C) 1977/2024, it would be apposite to refer hereinbelow the relevant extract thereof:

“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.”

8. In the light of the aforesaid, the writ petition is allowed by directing the respondent no. 1 to permit the petitioner to re-join her present place of posting i.e., Kendriya Vidyalaya, Khichripur, Delhi.

9. At the cost of repetition, it is made clear that this order will be subject to any order as may be passed by the Apex Court in SLP (C) No. 24825 / 2023 and the petitioner's pending O.A. before the learned Tribunal.

10. Needless to state once the Apex Court passes any order on the new transfer policy, the petitioner will be governed by the said order and this order, thereafter, will automatically stand vacated.

11. In view of the aforesaid, the petition stands disposed of along



with the pending application.

REKHA PALLI, J

GIRISH KATHPALIA, J

FEBRUARY 27, 2024

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