



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5340 OF 2025

Nitin S/o Shamrao Ghute,
Age : 41 years, Occ. Service,
R/o Behind Sharad Pawar School,
Barshi Naka, Yashwant Nagar,
Osmanabad,
At present Zilla Parishad Primary School,
Kakanagar Sanja – 2,
Tq. & Dist. Osmanabad and others

.. Petitioners

Versus

The State of Maharashtra,
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai – 32 and others

.. Respondents

...
Advocate for the petitioners : Mr. Ganesh J. Kore
AGP for the respondent – State : Ms. S.S. Joshi
...

**CORAM : MANGESH S. PATIL &
Y. G. KHOBRAGADE, JJ.**

DATE : 23 APRIL 2025

ORDER (MANGESH S. PATIL, J.) :

Heard the learned advocate for the petitioners.

2. The petitioners are coming with following prayers :-

“(B) By an order of this Hon’ble Court, kindly quash and set aside the impugned communications dated 02.04.2025 and 04.04.2025 issued by respondent No. 2.

(C) By an order of this Hon’ble Court, kindly quash and set aside the Government Resolution issued by the respondent No. 1 thereby introducing the policy for inter-district transfer of the teachers and further

seeking direction to the respondents to maintain equality in all category.

(D) Kindly declare and hold that, the Government Circular dated 21.02.2019 issued by the respondent No. 1 thereby introducing the policy for inter-district transfer of the teachers is bad illegal being contrary to the constitutional mandate.”

3. The learned advocate for the petitioners submits that the petitioners are teachers rendering services in the schools of Dharashiv Zilla Parishad. He submits that by way of government resolution dated 18.06.2024, in order to streamline and effect transfers of the teachers, a tenure has been fixed in clause no. 1.10, in respect of the teachers who shall be treated as due for transfer. It is only such teachers who have completed 10 years of continuous service at a particular place and who have completed 5 years in one school, have to be treated as due for transfer. However, contrary to this government resolution, by the impugned communication dated 04.04.2025 (**Exhibit – E**), respondent no. 1 - state has informed to the agency engaged by the state government for effecting transfers through a computerised programme that while effecting inter district transfers of special category teachers part – 1 and special category teachers part – 2, to follow the guidelines in the circular dated 21.02.2019. He submits that the stipulation in the government resolution could not have been altered / changed arbitrarily by the circular. Such communication dated

04.04.2025 as also the circular of 21.02.2019, are not legally sustainable and are contrary to the policy.

4. The learned AGP Ms. Joshi would submit that the petition is vague and does not make out any ground for taking exception to the impugned government circular or communication. It is a matter of policy. The decision is not alleged to have been taken capriciously or maliciously. If it is a matter of effecting transfers pursuant to some guidelines, those would apply equally across all the categories of employees and this Court should be slow in exercising jurisdiction under Article 226 of the Constitution of India in such matters.

5. We have considered the submissions of both the sides and perused the papers.

6. Admittedly, it is a matter of laying down the guidelines and the policy for effecting transfers of the teachers, in order to bring about transparency and to avoid arbitrariness and malpractices.

7. Assuming for the sake of arguments that by the impugned circular and communication, some changes are brought into effect for considering as to the minimum tenure to be treated as a parameter for deciding as to if a teacher is due for transfer or otherwise, the condition would apply equally across all the cadre. Merely because the petitioners now allege that they would be the sufferers, in the absence

of others who can derive the benefit of such change in the policy, and who are not before us and have not been arrayed as respondents, the grievance of the petitioners' cannot be considered in a lopsided manner.

8. Needless to state that in every such shift in the policy, the consequence is imperative. There would be some beneficiaries and there would be some who suffer the consequences to their disadvantage. However, till the time no *mala fides* or arbitrariness can be attributed, this Court in exercise of the extra-ordinary jurisdiction under Article 226 of the Constitution, shall be loath in causing any interference.

9. The petition is dismissed.

[Y. G. KHOBRADE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/