



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

WRIT PETITION NO.582 OF 2025

Dilip Haribhau Pawar -Vs-Shivaji Education Society and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Ms.R.G.Bajaj, counsel for the petitioner.
Mr.K.P.Mahalle, counsel for respondent No.1.
Ms.Kavita Bhongde, counsel for respondent No.2.

**CORAM: NITIN W. SAMBRE AND
MRS.VRUSHALI V. JOSHI, JJ.**

DATE : 14th FEBRUARY, 2025.

1. The petitioner has questioned the transfer order dated 23.01.2025, whereby in the capacity of Head Master of the High School, the petitioner is transferred from Taluka Darwa, district Yavatmal to Urjanagar, Chandrapur.

2. Amongst other, the grounds raised by the learned counsel appearing for the petitioner are the reasons cited in the order issued, speaks of stigma and also the order is punitive in nature. She would substantiate such contention based on the language of the impugned order. Drawing support from Rule 41(2) of the Maharashtra Employees of Private Schools, Rules, 1981, it is claimed that in his absence, the order impugned ought not to have been passed and as such, the order is liable to be quashed and set aside with directions to the respondents to hear the petitioner and pass fresh order in the matter, if so required.

3. As against above, the contention of the learned

counsel appearing for the respondent No.1, is that the order is not stigmatic in nature, rather it is in the interest of academic discipline of the institution, the petitioner was transferred. It is assured that the order need not be considered as stigmatic or punitive in the future service of the petitioner. To substantiate the aforesaid contentions, she has drawn support from the observations in the judgment of Division Bench of this Court in the matter of ***Dr. Soudamini S. Choudhari Vs. State of Maharashtra an ors. reported in 2020 SCC OnLine Bom 9333.***

4. The division Bench of this Court while dealing with an identical issue, in paragraph Nos. 17,20 and 21 has made following observations:-

“17. Our understanding of the principles of law laid down in the aforesaid decisions is this. A Government servant, holding a transferable service, can be transferred from one post to another having regard to administrative policy or practice or because of administrative reasons. However, an order of transfer could be labelled as *mala fide* if it is used as a cloak for punishment. Unless a case of *mala fide* is pleaded and proved, it may not be appropriate for the Court to review the expediency and propriety of an administrative order to transfer a Government servant from one post to the other. Whenever a transfer order is proved to have been passed *mala fide* or when such an order has penal consequences, the Court ought not hesitate to strike down the transfer order. But when reasons for transfer are administrative in nature and the appropriate authority acts *bona fide*, the

Court has to stay at a distance and not interfere with such administrative order for transfer.

20. Transfer being an incidence of service and the petitioner being the holder of a transferable post could complain against the transfer order, if the same were ordered in violation of any of the provisions of the Transfer Act. Her claim that she has been punished on the basis of unsubstantiated allegations contained in a complaint has to be judged in the light of the provisions referred to above.

21. That the complaint received by the Dean from the staff of Podar Medical College and forwarded to the Director, Ayush formed the plinth of the petitioner's transfer, is the admitted position. There is nothing oblique on that count as such to cast a doubt. Question is, whether by reason of the order of transfer the petitioner has been punished, or in other words, whether the weapon of transfer has been used against her as a punitive measure, or whether it is in public interest that it was considered necessary to transfer and post her at the Govt. College. Having regard to the law laid down in Janardhan Debanath (supra), to amount to a punishment it is incumbent for the petitioner to show that the order of transfer has entailed penal consequences for her. There is no allegation from the side of the petitioner that by reason of the impugned transfer order, she has been asked to discharge duty on a post lower than that she held at Podar Medical College, or that there has been downgrading of her pay, or that her promotional prospects are jeopardised or that the order is stigmatic in the sense that she would have to carry an indelible stain for the rest of her service career without there being any finding of guilt recorded against her. On the contrary, the complaint together with the report of the Dean acted as a catalyst to meet two ends, i.e., avoid further conflict between the petitioner and the staff and to secure the interests of the patients, which was taking a

beating because of such conflict. The petitioner's presence at Podar Medical College was not found desirable, on facts and in the circumstances, which resulted in the respondents deciding to post her at the Govt. College but keeping her entitlements intact”.

5. Once the petitioner is transferred for the reasons stated in the order impugned, it cannot be inferred therefrom that the service conditions of the petitioner have undergone change viz. is a reduction in the rank or that of salary.

6. Rather, the impugned order speaks of the cause for which the petitioner was transferred and the same cannot be considered as stigmatic or punitive in the light of the aforesaid observations.

7. It appears that the transfer of the petitioner is effected in the best academic interest so also the interest of the petitioner.

8. That being so, no case for interference is made out in the extra ordinary jurisdiction of this Court.

9. The petition stands dismissed.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)