

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 597/2023 (S.B.)**

Ravi Vinayakrao Thete,  
Aged – 40 years, Occ. Service,  
R/o Samir Layout, Jamb Road,  
Yavatmal, Tq. and Dist. Yavatmal.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of Tribal Development,  
Mantralaya, Mumbai- 32.
- 2) Additional Commissioner,  
Tribal Development,  
Amravati,  
Tq. and Dist. Amravati.
- 3) Project Officer,  
Integrated Tribal Development Project,  
Phandarkavda, Tq. Kelapur,  
Dist. Yavatmal.
- 4) Dhiraj Rathod,  
Aged 40 years,  
Occ. Service, R/o Government Ashram School,  
Matharjun, Tq. Zari,  
Dist. Yavatmal.

**Respondents**

---

**Shri P.A.Kadu, Id. Advocate for the applicant.**

**Shri A.M.Khadatkar, Id. P.O. for the Respondents.**

---

**Coram :- Hon'ble Shri M.A.Lovekar, Member (J).**

---

**JUDGEMENT**

**Judgment is reserved on 22<sup>nd</sup> August, 2023.**

**Judgment is pronounced on 25<sup>th</sup> August, 2023.**

Heard Shri P.A.Kadu, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the Respondents.

2. In this Original Application the applicant, who holds the post of Superintendent (male), has impugned the order dated 31.05.2023 (A-1) transferring him from Government Ashram School at Nanza to Government Ashram School, Kinhijavade on administrative ground, on the post falling vacant on transfer of one Shri M.M.Dunge, on the ground that it is passed in contravention of guidelines contained in G.R. dated 09.04.2018 (A-2).

3. It was submitted by Adv. Shri Kadu, for the applicant that the impugned order is passed in disregard of following guideline given on internal P. 7 of G.R. dated 09.04.2018:-

टप्पा क्र. ५ : समुपदेशनाद्वारे बदलीसंदर्भात नागरी सेवा मंडळाने अनुसरावयाची कार्यपध्दती :-

टप्पा क्र. ४ मधील मुद्दे विचारात घेऊन नागरी सेवा मंडळाने खालील नमूद कार्यपध्दतीनुसार बदलीसंदर्भातील शिफारशी सादर कराव्यात.

I. अवघड क्षेत्रात कार्यरत असणाऱ्या व बदलीस पात्र असणाऱ्या कर्मचाऱ्यांची प्रसिध्द केलेली यादी प्रथम विचारात घेऊन सदर यादीतील कर्मचाऱ्यांची विवरणपत्र-२ मध्ये नमूद केलेल्या प्राधान्यक्रमानुसार बदलीद्वारे पदस्थापनेबाबत शिफारस करावी.

4. It is not in dispute that the applicant was due for transfer and the applicant had given 10 options.

5. It was submitted by Advocate Shri Kadu that the applicant ought to have been posted at Ashram School, Zatala, Tal. Ghatanji which was the third option given by him as post of Superintendent (male) was lying vacant there since September, 2022. In support of this submission reliance was placed on A-4 which is tabular information at the end of September, 2022, and as on 15.06.2023. As per this information, since September, 2022 till 15.06.2023 post of Superintendent (male) in Ashram School, Zatala was vacant. To further support this submission reliance was placed on A-6 which is a printout downloaded from the official website. As per this information also the post of Superintendent (male) in Ashram School, Zatala was vacant on 05.07.2023. Further reliance was placed by the applicant on A-7 which shows that one Sanjay Dongre who was placed under suspension by order dated 21.12.2022 (at P. 62) took charge of the post of Superintendent (male) at Ashram School, Zatala on 06.07.2023.

6. On behalf of the applicant attention was invited to order dated 19.06.2023 passed by this Bench directing Id. C.P.O. to take instructions whether the applicant could be accommodated at Zatala. On 07.07.2023 communication dated 06.07.2023 (at P. 58) was placed on record in which it was stated:-

तसेच संदर्भ क्र.2 च्या अनुषंगाने कळविण्यात येते की, अर्जदार यांनी मागणी केलेल्या ठिकाणी शासकीय आश्रमशाळा, झटाळा येथे श्री डोंगरे, अधीक्षक (निलंबित) यांना मुख्यालय दिलेले असल्याने तेथे अधीक्षक पुरुष हे पद रिक्त नाही.

7. It was submitted by Advocate Shri Kadu that post at Zatala was vacant till 05.07.2023 and only to defeat genuine claim of the applicant Shri Dongre was made to take charge of said post on 06.07.2023 and malafides can be easily discerned when order passed earlier directing the Id. C.P.O. to ascertain whether the applicant could be accommodated at Zatala are taken into account.

8. The respondents have placed on record (at P. 62) order dated 21.12.2022 placing Shri Dongre under suspension. This order *inter alia* states :-

पुढे असाही आदेश देण्यात येत आहे की, निलंबन कालावधीमध्ये श्री. एस. एम. डोंगरे, अधीक्षक (पुरुष) यांचे मुख्यालय शासकीय आश्रमशाळा, झटाळा ता. घाटंजी जि.यवतमाळ हे राहिल. त्यांना मुख्याध्यापक, शासकीय आश्रमशाळा, झटाळा ता. घाटंजी जि. यवतमाळ यांचे पूर्व परवानगी शिवाय मुख्यालय सादता येणार नाही.

9. In his additional affidavit the applicant has contended that if Shri Dongre's headquarter on suspension was to be Zatala, subsistence allowance must have been paid to him by the establishment of said school and since there is no material to establish this aspect, it cannot be believed that Shri Dongre's headquarter was to be Zatala. There is no merit in this submission. I have referred to order dated 21.12.2022. A-7 shows that Shri Dongre was paid salary only upto 31.12.2022 from the

establishment of Ashram School at Vasantpur where he was posted before suspension.

10. It is the contention of the respondents:-

अर्जदार यांनी याचिकेमध्ये शासकीय आश्रमशाळा, झटाळा येथे अधीक्षक पुरुष पद रिक्त असल्याचा उल्लेख केलेला आहे. तथापि, श्री. एस. एम. डोंगरे, अधीक्षक पुरुष यांना या कार्यालयाचे आदेश क्र.5767 दि 21/12/2022 अन्वये निलंबित करण्यात आले असून निलंबन कालावधीकरीता त्यांना शासकीय आश्रमशाळा, झटाळा हे मुख्यालय देण्यात आलेले आहे. तसेच निलंबित झाल्यापासून सदर शाळेवरून श्री. डोंगरे यांना निर्वाह भत्ता व इतर पुरक भत्ते अनुज्ञेय हस असल्यामुळे शासकीय आश्रमशाळा, झटाळा येथे अधीक्षक पुरुष हे पद रिक्त नाही. त्याचबरोबर श्री. डोंगरे यांच्या पत्नी कु.डबुरकर, कनिष्ठ लिपिक हयांची सन 2023 मध्ये यवतमाळ येथील वसतिगृहावर बदली केलेली असून पती-पत्नी एकत्रीकरणाचे दृष्टीने श्री. डोंगरे यांचे मुख्यालय बदलवून त्यांना अन्यत्र ठिकाणी मुख्यालय देणे त्यांच्या व त्यांच्या पत्नीच्या दृष्टीने गैरसांगीचे ठरेल.

Further contention of the respondents is:-

श्री. एस. एम. डोंगरे, निलंबित अधीक्षक यांची LPC ही दिनांक 05/07/2023 रोजी पर्यंत प्राप्त झालेली नसल्याने शासकीय माध्यमिक आश्रमशाळा, झटाळा ता.घाटंजी जि.यवतमाळ येथील सेवार्थ प्रणालीमध्ये अधीक्षकाचे पद रिक्त असल्याचे दिसून येते.

श्री. एस. एम. डोंगरे, निलंबित अधीक्षक यांची LPC ही दि. 11/07/2023 रोजी प्राप्त झालेली असल्याने, सदयास्थितीत शासकीय माध्यमिक आश्रमशाळा, झटाळा ता.घाटंजी जि.यवतमाळ येथील अधीक्षक हे पद रिक्त नाही.

11. Thus, there is nothing to accept contention of the applicant that headquarter of Shri Dongre was changed to Zatala only to defeat legitimate claim of the applicant for being posted there. In view of this conclusion prayer of the applicant to quash the impugned order and post him at Zatala will fail. Above referred stand of the respondents also

shows that the impugned order cannot be interfered with. For these reasons **the O.A. is dismissed with no order as to costs.**

**(Shri M.A.Lovekar)**  
**Member (J)**

**Dated :- 25/08/2023.**  
**aps**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 25/08/2023.  
and pronounced on

Uploaded on : 28/08/2023.