

WP(C) 2489/2007

BEFORE

THE HON'BLE MR JUSTICE B.K. SHARMA

Heard Mr. P.C. Dey, learned counsel for the petitioner as well as Mr. A. Sarma, learned counsel for the respondent No. 4. I have also heard Mr. A.K. Goswami, learned Sr. Standing Counsel, KAAC assisted by Mr. S. Banik, learned counsel.

The grievance raised in this writ petition is in respect of Annexure-A transfer order dated 17.5.2007, by which the petitioner has been transferred from one school to another school and in his place the respondent No. 4 has been posted.

As per the averments made in the writ petition, the respondents have taken recourse to the impugned action not in public interest or in any exigency of service. According to the petitioner, the transfer order has been issued to accommodate the respondent No. 4.

The respondents in their counter affidavit have denied the contentions raised in the writ petition. Referring to the allegations made against the petitioner by the general public and the enquiry conducted thereafter, it is the stand of the respondents that the petitioner has been transferred so as to maintain good academic atmosphere in the school. The respondent No. 4 has also filed affidavit-in-opposition stating inter alia that pursuant to passing the order of transfer, he has joined the school and has been discharged his duties.

In the affidavit-in-reply, the petitioner has projected altogether a different case. As per the reply affidavit, one Shri Kapil Choudhury has forcefully occupied 10 lachas of land belonging to the school. Since the petitioner objected to the same by bringing it to the notice of the Managing Committee of the school as well as by filing complaint before the police, said Shri Choudhury along with his associates formed group and persuaded the authority to transfer the petitioner. On being pointed out that copies of the alleged complaint lodged before the Managing Committee and the police have not been annexed to the reply affidavit, learned counsel for the petitioner submits that the police refused to register any case. However, no such averments could be found in the reply affidavit. On the basis of the averments made in the counter affidavit, the petitioner has now projected altogether a different case than what was projected in the writ petition.

The counter affidavit filed by the respondents have revealed that there were certain allegations against the petitioner such as long absence from duty giving indulgence to the Managing Committee, which has long expired etc. Pursuant to such allegation, the respondent conducted fact-finding enquiry and the authority having been found guilty, initiated departmental proceeding against the petitioner. It is on that basis the transfer order has been issued.

In view of the above, I do not find any infirmity in the impugned order of transfer.

Writ petition is dismissed. Interim order passed on 25.5.2007 stands vacated.