

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 7612 / 2017

1. Abdul Raheem Pathan S/o Shri Rustam Khan, Aged About 50 Years, Resident of Pathano Ka Mohalla, Bhinay, District Ajmer.
2. Seth Mohd. S/o Shri Amir Teli, Aged About 41 Years, Resident of Behind Tehsil Office, Bhinay, District Ajmer.

----Petitioners

Versus

1. The State of Rajasthan, Through Its Secretary, Department of Education, Government of Rajasthan, Jaipur.
2. The Director, Secondary Education, Bikaner.
3. The District Education Officer, Secondary Education (Secondary-I), Ajmer.

----Respondents

For Petitioner(s) : Mr. Sushil Solanki

Mr. Niranjan Patel

HON'BLE JUSTICE GOVERDHAN BARDHAR, VACATION JUDGE

Judgment / Order

30/06/2017

Learned counsel for the petitioner submits that in a bunch of writ petitions led by S.B. Civil Writ Petition No.10232/2016 "Smt.Rooplata Meena Vs. State of Rajasthan & Ors." involving an identical controversy, the Jaipur Bench of this Court has given liberty to those litigants to submit a representation to the competent authority for ventilating their grievances and thus, the instant with petition may also be decided in light thereof.

The prayer so made is justified.

The Jaipur Bench of this Court decided the above bunch of

writ petitions with the following directions:

"After considering various grievances raised by the petitioners and narrated above, it can be redressed, if representation is given by the petitioners within ten days from today and exercise is thereupon undertaken by the department in the following manner for which their exist agreement between the parties:

- (1). The petitioners would make a representation to the respondents raising their grievances against the order of challenge of the posting. The representation aforesaid would be submitted within a period of copy of this order. The respondent department i.e. Secondary as well as Elementary Education would immediately notify the vacant posts in different schools and out of which, in which school they are in need of a Teacher. If a vacant post exists in the school, the Teacher may not be required then while notifying the vacant post in the school, it would be made clear by the department that against any post of posts, they do not need additional hands. It is agreed that if the department finds that additional hands are not required in a particular school or against a post, then such posts would not be filled by transfer for a period of three months.
- (2). The Teachers of Level II posted against the post of Level-I would be transferred back to their post immediately after getting the new recruits or on availability of the Teacher (Level-I). The said exercise would be undertaken viceversa i.e. for transfer of Teachers Gr.III appointed on Level-I but transferred against the

post of Level-II, if any.

- (3). The department would post the Teacher against the post meant for specialized subject if their recruitment was in a particular subject or they are teaching the subject for years together. The Teacher of subject would be transferred to a post of the said subject only so that students may not suffer.
- (4). While undertaking the exercise, the department may take into consideration the guidelines issued on 8th May, 2016 and 9th May, 2016. While applying the said guidelines, the effort would be to redress the grievances of the petitioners.
- (5). The petitioners would be at liberty to indicate their choice of school other than it is notified by the respondents.
- (6). If mutual transfer is sought then it would be dealt with by the department. The request can be accepted because in the case of mutual transfer, it would not affect any one which includes even the department. The prayer for mutual transfer would be between the employees of same level of the post and set up apart from subject, if any.
- (7). If the petitioners have already joined the post in pursuance of the orders under challenge, then their joining would not be taken adverse for disposal of the representation and carrying out the directions given.
- (8). Apart from the issues referred above, if any other issue exists to seek change of the place of transfer, the petitioners would be at liberty to make a representation showing the ground for it like posting of husband and wife at one place,

illness, disability, retirement in few months or any such similar ground.

(9). It is agreed that the representation would be considered by the department within a period of two months with necessary order."

Thus, the instant writ petition is also disposed of in the same terms.

Stay petition is dismissed.

No order as to costs.

(GOVERDHAN BARDHAR)V.J.

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