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IN THE HIGH COURT OF MADHYA PRADESH AT INDORE
BEFORE
HON'BLE SHRI JUSTICE VIVEK RUSIA
&
HON'BLE SHRI JUSTICE RAJENDRA KUMAR (VERMA)
ON THE 31st OF JANUARY, 2022
WA-01802-2019

Between:-

1. **THE STATE OF M.P. THROUGH PRINCIPAL SECRETARY, COMMERCIAL TAX DEPARTMENT VALLABH BHAWAN, BHOPAL DISTRICT BHOPAL (MADHYA PRADESH)**
2. **THE COMMISSIONER EXCISE, MADHYA PRADESH, OFFICE OF EXCISE COMMISSIONER, MOTI MAHAL, GWALIOR, DIST. GWALIOR (MADHYA PRADESH)**

.....APPELLANTS

(SHRI SHREY RAJ SAXENA, DEPUTY ADVOCATE GENERAL)

AND

1. **RAJESH MANDLOI S/O SHRI BHERUSINGH MANDLOI , AGED ABOUT 47 YEARS, OCCUPATION: ASSTT DISTICT EXCISE OFFICER ADDRESS- C/O ASHOK SOMANI KESHAV NAGAR, ALIRAJPUR, DISTRICT ALIRAJPUR (MADHYA PRADESH)**
2. **SHRI MUKESH RANDA, ASSISTANT DISTRICT EXCISE OFFICER, EXCISE OFFICE, KHANDWA DIST. KHANDWA (MADHYA PRADESH)**
3. **MRS. PRIYA RAWAT W/O SHRI MUKESH RANDA ASSISTANT DISTRICT EXCISE OFFICER, EXCISE OFFICE, KHANDWA DISTRICT KHANDWA (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI HARSHWARDHAN SHARMA, ADVOCATE FOR RESPONDENT NO.1)

WRIT APPEAL No. 1801 of 2019

Between:-

1. **THE STATE OF M.P. THROUGH PRINCIPAL SECRETARY, COMMERCIAL TAX DEPARTMENT VALLABH BHAWAN, BHOPAL DISTRICT BHOPAL (MADHYA PRADESH)**
2. **THE COMMISSIONER EXCISE, MADHYA PRADESH, OFFICE OF EXCISE COMMISSIONER, MOTI MAHAL, GWALIOR, DIST. GWALIOR (MADHYA PRADESH)**

.....APPELLANT

(SHRI SHREY RAJ SAXENA, DEPUTY ADVOCATE GENERAL)

AND

1. **MAHADEV SOLANKI S/O CHAMPALAL SOLANKI , AGED ABOUT 38 YEARS, OCCUPATION: ASSTT DISTRICT EXCISE OFFICER NEW KARAMCHARI COLONY SEMAL PATIL ALIRAJPUR (MADHYA PRADESH)**
2. **SHRI MUKESH RANDA, ASSISTANT DISTRICT EXCISE OFFICER, EXCISE OFFICE, KHANDWA DIST. KHANDWA (MADHYA PRADESH)**
3. **MRS. PRIYA RAWAT W/O SHRI MUKESH RANDA ASSISTANT DISTRICT EXCISE OFFICER, EXCISE OFFICE, KHANDWA DISTRICT KHANDWA (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI HARSHWARDHAN SHARMA, ADVOCATE FOR RESPONDENT NO.1.)

(Heard through Video Conferencing)

This appeal coming on for orders this day, VIVEK RUSIA passed the following:

ORDER

The appellants have filed these writ appeals against the order dated 23.09.2019, whereby writ petition nos.13728/2019 and 13725/2019 filed challenging the transfer order dated 05.07.2019 by the respective petitioners have been allowed.

By the transfer order dated 05.07.2019, these two writ petitioners namely Rajesh Mandloi and Mahadev Solanki have been transferred. Rajesh Mandloi has been transferred from Alirajpur to Mandsaur and Mahadev Solanki has been transferred from Alirajpur to Neemuch and in their place, respondents no.2 and 3 Mukesh Randa and Mrs. Priya Rawat (husband and wife) have been transferred from Khandwa to Alirajpur. The writ petitioners have assailed the impugned transfer order firstly on the ground that they have not completed their normal tenure, secondly, their children are studying in schools and thirdly, they have been transferred in order to accommodate Mukesh Randa and Mrs. Priya Rawat.

The writ Court has initially granted stay and thereafter the State filed reply. The private respondents also filed reply and after hearing all the parties vide order dated 23.09.2019, this Court has set aside the transfer orders of both the writ petitioners. Being aggrieved by the aforesaid order, the appellants have filed these writ appeals on 04.11.2019. These writ appeals came up for hearing on 06.12.2019. The Government Advocate sought an adjournment and thereafter now first time these appeals are listed for arguments on admission. During this intervening period, more than two and half years have passed, the writ petitioners Rajesh Mandloi and Mahadev Solanki have almost completed three years of their tenure and their children have completed their education in that respective classes, therefore, no ground for interference in the impugned transfer order, by efflux of time, does not survive. Meanwhile, private respondents have also not challenged the order of the writ Court, by way of writ appeal. It appears that they are satisfied and they continued at Khandwa.

Hence, instead of interfering with the impugned transfer order, we grant liberty to the State Government to pass a fresh order, in case of any administrative exigency.

With the aforesaid these writ appeals are disposed off.

VIVEK RUSIA)
JUDGE

RJ

(RAJENDRA KUMAR (VERMA))
JUDGE

