

(2016) 03 J&K CK 0021

In the Jammu And Kashmir High Court

Case No : SWP No. 167 of 2016 and SWP No. 199 of 2016 with MP No. 01 of 2016 in each petition

Ab. Qayoom Wani

APPELLANT

Vs

State of J&K

RESPONDENT

Date of Decision : 04-03-2016

Acts Referred:

Constitution of Jammu and Kashmir, 1956 — Section 103

Citation : (2016) 2 JKJ 534

Hon'ble Judges : Mr. Ali Mohammad Magrey, J.

Bench : Single Bench

Advocate : Mr. M.I. Dar, Advocate, for the Respondents No. 1. and 3.; Mr. Mehfooz Nazki, Advocate, for the Respondent No. 4.; Mr. M.M. Dar, Advocate, for the Appellant/Petitioner

Final Decision : Dismissed

Judgement

Mr. Ali Mohammad Magrey, J. - These two writ petitions have been filed by one and the same petitioner. In the first one, the petitioner has

challenged Government order No. 26-Edu of 2016 dated 02.02.2016 whereby the Government in the School Education Department, on a review

of attachments/deployment of staff in the School Education Department, inter alia, ordered repatriation of the officers/officials working in the

Project Directorate of SSA over and above its sanctioned strength. The petitioner has prayed that respondents, more particularly respondent No.

3 (Project Director, SSA, J&K at Jammu), be prohibited from acting on the aforesaid Government order and be directed to allow the petitioner to

continue in his department as per order dated 21.07.2014. In the second writ petition, the petitioner has challenged order No. 123/DSEK of 2016

dated 03.02.2016 issued by respondent No. 2, the Director, School Education, so

far as it pertains to him, with further prayers almost identical to the ones made in the first writ petition.

2. The petitioner, a Master in the Education Department and holding the designation of Incharge Headmaster, is stated to be the Union President of Employees Joint Action Committee, President of School Education Employees Co-ordination Committee and Chairman, J&K Teachers Forum.

By Government order No. Edu-Gaz/05/2014 dated 15.07.2014, the petitioner was transferred along with the post from State Institute of

Education, Srinagar, and posted as Consultant, SSA.

3. It appears that the Government in the School Education Department had a review of the attachments and deployments of staff made in the

School Education Department which culminated into issuance of Government order no. 26-Edu of 2016 dated 02.02.2016 enjoining certain steps

in the interest of administration. It, inter alia, ordered repatriation of the officers/officials working in the Project Directorate of SSA over and above

its sanctioned strength. It was mentioned in the order that "...these officials are deemed to have been relieved from SSA and shall report to the

authorities, as indicated in Annexure 'A' to this Government order, who shall issue their orders of posting within three days". Name of the petitioner

figured at serial No. 3 of Annexure 'A' to the aforesaid Government order, showing him as I/C Headmaster. He was required to report to

Respondent No. 2 herein, i.e., the Director, School Education, Kashmir.

4. The petitioner, feeling aggrieved of the aforesaid Government order No. 26-Edu of 2016 dated 02.02.2016, challenged the same in writ

petition, SWP No. 167/2016, on the ground of it being based on mala fides of respondent No. 3, and being violative of the transfer policy framed

by the Government in terms of order No. 622-Edu of 2015 dated 22.12.2015.

5. In order to elucidate and buttress the ground of mala fides, it is stated that respondent No. 2 had been victimising the members of the Union,

and in pursuit of his mala fide intentions, he transferred two of the union members, namely Mohammad Amin and Mohammad Afzal Bhat from their

respective places. They filed writ petitions and obtained orders of stay in their favour. The petitioner in his capacity as Chairman of J&K Teachers

Forum etc. made a representation to respondent No. 1, Commissioner/Secretary to Government, Education Department, seeking his intervention

in the transfers made by respondent No. 2. When respondent No. 2 came to know about such representation, he got annoyed and issued a press report which came in press, including The Kashmir Monitor' in its issue dated 30.01.2016, saying that he will not tolerate unionism in his department. It is alleged that it was pursuant to the aforesaid extraneous considerations of respondent No. 2 that respondent No. 1, with an object to shelter respondent No. 2, issued the said Government order No. 26-Edu of 2016 dated 02.02.2016, repatriating the petitioner from SSA. It is also averred that respondent No. 1 formulated transfer policy/guidelines to govern transfers in terms of Government order No. 622-Edu of 2015 dated 22.12.2015 where-under transfer carnivals ""transfer melas"" in each and every district were to be held and teachers, who had two or more years of stay at a place, were to be transferred. It is stated that the petitioner had not yet completed two years' tenure in SSA.

6. The aforesaid writ petition, presented before the Registry of the Court on 04.02.2016, came up for consideration before a Coordinate Bench of this Court on the very same day. The Court, while issuing notice, directed that operation of the impugned order to the extent of the petitioner shall not be acted upon.

7. It appears that prior to presentation of the aforesaid writ petition, SWP No. 167/2016, before the Court by the petitioner and, consequently, prior to passing of the Court order dated 04.02.2016 referred to here in above, respondent No. 2, Director, School Education, Kashmir, issued order No. 123-DSEK of 2016 dated 03.02.2016 according sanction to the transfer and posting of numerous I/C Headmasters and equivalents mentioned therein. The petitioner's name figures at serial No. 81 therein and he stands posted at HS Ogmuna, Baramulla.

8. The petitioner, therefore, on 08.02.2016, came up with another writ petition, SWP No. 199/2016, before the Court challenging the aforesaid order dated 03.02.2016 issued by respondent No. 2 on the very same grounds as were taken in the first writ petition. Additionally, it is pleaded that since the Court by order dated 04.02.2016 passed in the petitioner's earlier writ petition, SWP No. 167/2016, had directed that operation of the order dated 02.02.2016, repatriating the petitioner from SSA, shall not be acted upon, the petitioner would be deemed to have continued at

SSA and respondent No. 2 could not have ordered his transfer/posting.

9. The aforesaid writ petition came up before the Court on 12.02.2016. However, the Court issued only notices. No order of stay was passed.

10. Before proceeding further, it may be mentioned here that the petitioner has arraigned the fourth respondent in both the writ petitions with the

following particulars:

Faisal Rasool Shah alias Dr. Shah Faisal S/o Ghulam Rasool Shah R/o Sogam, Kupwara at present Hyderpora, Srinagar"".

No designation or official particulars, or anything like that, has been indicated against the 4th respondent to show as to in what capacity he has

been arraigned as such respondent in the writ petition. However, though not indicated so in the array of respondents, this respondent seems to be

the incumbent Director, School Education, Kashmir. The form his particulars have been mentioned in the array of respondents, smacks of the over

awing mannerism and degradation of socially accepted norms of respect and discipline. If a governmental functionary is to be impleaded as a

respondent in his personal capacity, he is to be so arraigned by giving his official address, unless it is shown that the actions alleged against him

exclusively fall outside his official domain or governmental functions. That is not the case here. The object of the style in which the particulars of

respondent No. 4 have been given, inferentially, is nothing but deliberate expression and demonstration of scanty regard and rebellion behaviour

which does not behove a government servant, particularly so when he claims to be spearheading the employees. It is unfortunate that the learned

counsel appearing for the petitioner has allowed himself to be driven by the emotions and sentiments of his client while drafting the writ petition.

11. Be that as it may, the Director, School Education, has filed his separate objections to the writ petition, while the Government has filed its own

objections in both the writ petitions, vehemently denying the assertions and allegations made by the petitioner in the two writ petitions. I will

mention and refer to the relevant replies so submitted by the respondents at appropriate place of this judgment.

12. Since the matter involved urgency, the learned counsel for the parties stated at the Bar that the two writ petitions could be heard for final

decision/disposal at the admission stage. Accordingly, the learned counsels were

heard on 23.02.2016 and 25.02.2016.

13. I perused the record brought on the case files and considered the matter.

14. The pivot of the two writ petitions is the ground of mala fides alleged by the petitioner. In fact, all the grounds raised by the petitioner in the two

writ petitions taper to, or spiral from, the very same allegation. As mentioned above, the allegation is sought to be not only made out but supported

by the news report carried by a local daily, 'The Kashmir Monitor' in its issue dated 30.01.2016 under the caption ""Will not tolerate unionism in

my deptt: Dir Education"". I think it appropriate to quote hereunder in its entirety the news report so carried by the newspaper. It reads thus:

Srinagar: Unfazed by the Jammu and Kashmir Teachers Forum (JKTF) proposed gherao to Directorate of School Education, Kashmir today

(January 30), Director School Education, Dr. Shah Faisal said he has pledged to uproot the menace of unionism from the education department.

While talking to the Kashmir Monitor, the first IAS topper from J&K who presently heads the vital education sector said this unionism has to end

as it has not only created indiscipline in the department but has marred its functions.

'I will continue to clean the system and bring reforms in it come what may. Without succumbing to any pressures and threats, I will continue to

bring much needed changes in the education sector. These union leaders will also go to the schools to teach students for which they are being paid',

he said.

Shah Faisal said unionism also existed in the police department, but it was later abolished in 1980's, that brought discipline in the police

department. 'So in the same (sic) this unionism has to end in a sensitive department like education. My fight against it will continue,' he said.

He said other departments that have been marred by the unionism are Urban Local Bodies, Transport department, Consumer affairs and Public

Distribution (CAPD).

'But I won't tolerate this in Education department. Nothing can harm or stop me from this. I am ready to face whatever the consequences. The

transfers of people in education department will continue so that better results are yielded', he said.

When contacted KLTF President Abdul Qayoom Wani said he is a government

employee and is ready to serve wherever he is being posted.

'Even if I am posted in a far flung area, I am ready to serve. I am a government employee,' he said, adding his fight is against the pick and choose policy.

'Only selected persons are being transferred. We won't let that happen,' he said.

Wani said as far as the question of unions are concerned, nobody can stop him from fighting for their rights under the banner of any union. This is

our constitutional right. Shah Faisal is no entity to stop us. Unions exist in every part of the world,' he said.

'Director sahib doesn't have Allah din Ka chirag that tells him who is working and who is not. Everyone is giving their best'.

15. Mala fide, as we know, means bad faith. An action which may be founded on dishonest belief or purpose would be mala fide. The Supreme

Court in Municipality of Bhiwandi and Nizampur v. Kailash Sizing Works, AIR 1975 SC 529 observed that reckless disregard of

consequences and mala fides stand equal, where the actual state of mind of the actor is relevant. This is so in the eye of law, even if there might be

variations in the degree of moral reproach deserved by recklessness and mala fides. The definition of the expression 'good faith' or 'done in good

faith' as given in Section 3(14) of the General Clauses Act, Svt. 1977 (1920 AD) is that a thing shall be deemed to be done in good faith where it

is in fact done honestly, whether it is done negligently or not. Thus, an action taken in good faith -with an honest belief or for an honest purpose -

would not be mala fide; it would be an action taken bona fide. Exercise of a power vested in an authority 'in good faith' has also been interpreted

to mean 'for legitimate reasons, not for extraneous, irrelevant considerations or reasons.

16. Before analysing the statement attributed to respondent No. 2 as carried by the Kashmir Monitor, it would be proper to find out what he has

to say in this regard.

17. It is not that respondent No. 2 has totally denied to have expressed or said anything. He has categorically denied the allegations of mala fides.

His assertion is that the reporting published in the newspaper 'The Kashmir Monitor' on 30.01.2016 is ex facie false and grossly erroneous. In

paragraph 5 of the objections filed by him, the Director has stated that he had, in

fact, expressly stated that he was in favour of a healthy union and that he personally appreciated good unions and believed that a good union can contribute towards growth of any department. It is averred that the statement made by him also came to be reported in 'Kashmir Observer' on the very same day. Respondent No. 2 has appended a downloaded copy of the said reporting with his objections. It bears the caption ""DSEK seeks Teachers Cooperation for 'Reforming' Education System"". I think it would be appropriate to quote hereunder the said report as well. It reads thus:

Srinagar: Seeking cooperation from the teachers and Teachers Forum for the reform of the education sector for building future of the state, Director School Education Kashmir Shah Faesal said that the issues of protesting teachers can be discussed within the walls of the department not in public.

'We should discuss departmental matters within the walls of the department. The issues and grievances can be addressed in the department not on streets,' Shah Faesal told KNS.

Faesal said that the government has taken decisions for the reform of the education and in favour of the teachers.

Saying that the doors of the teachers are open in the directorate for the genuine demands, he said that he is meeting teachers every day for listening to and addressing their issues.

Faesal said that almost all the teachers are supporting the recent decisions taken by the department. 'The decisions taken by the higher authorities are fully justified and are in favour of the teachers,' he said.

He said that government is ready to fulfil the genuine demands of the teachers. 'I am not against the unionism and I personally appreciate the good unions as I believe a good union can contribute a lot to any department,' Faesal said.

The director said that teachers taking to streets do not create a good impression about them among students as teachers are known as builders of any society.

He said government is ready to fulfil all the genuine demands of government (sic)"".

18. Apart from the fact that the Director has explicitly denied the allegations, a

bare reading of the two news items - one reported by the Kashmir

Monitor in its issue dated 30.01.2016 and the other carried by the Kashmir Observer on the same day, both quoted above - portray an absolute

contrast about what had professedly been said and expressed by respondent No. 2. The two reports are wholly different and give two different

impressions about what had been said. The fact or the content of the report as it appears in the news item carried by the Kashmir Observer is not

denied by any person, muchless the petitioner. In that view of the matter, the content of the news item appearing in the daily the Kashmir Monitor

is not only denied but, on the contrary, it is shown that instead something different was said. In such a situation, there being two types of news

reports available before the Court, this becomes a case of disputed questions of facts. It is not within the competence of this Court in its writ

jurisdiction to embark upon an enquiry into the questions of disputed facts to determine which of the two news items reports the correct version of

the statement made by respondent No. 2. On that count alone, these writ petitions are not maintainable.

19. Coming to another aspect of the matter, even if it be assumed that whatever is reported in the news item appearing in the Kashmir Monitor had

been actually said by respondent No. 2, does it smack of any recklessness or dishonesty on his behalf, and whether the power, if any vested in

respondent No. 2 in this regard, has been exercised for any extraneous, irrelevant or non-germane considerations, are the questions that fall for

determination. It is to be borne in mind that order dated 02.02.2016, where under the petitioner was repatriated from SSA and directed to report

to respondent No. 2, was issued by the Government in the School Education Department, not by respondent no.2. Respondent No. 2 did not

have the power to repatriate the petitioner from SSA or to post him there or to continue him there. Therefore, nothing on that count can be

attributed to respondent No. 2. It is preposterous on the part of the petitioner to say that the Government passed the order in question to shelter

respondent No. 2. There is nothing brought on the record to even remotely suggest that respondent No. 2 had any say in the matter or that he, in

fact, did influence the Government to pass such orders. On the contrary, the reason that effectuated the order is disclosed in para 2 of the

preliminary objections filed on behalf of the Government. It is averred therein that as on 31.01.2015, there were about 3000 officials who were

posted in various departments in non-teaching capacities. As a result of this, the Education Institutes/Schools in far flung areas were suffering.

Faced with the situation, the authorities concerned took a policy decision that all the attachments / transfers of teaching staff to non-teaching

positions shall be revoked forthwith. Accordingly, a Government order, being Government order No. 08-Edu of 2015 dated 15.01.2015 was

issued whereby all attachments/deployments were revoked with immediate effect. Thereby, majority of such officials stood repatriated. However,

there were complaints regarding rampant attachments in the School Education Department. Accordingly, details were sought by the Government in

terms of letter dated 19.01.2016. On receipt of such information, it was brought to fore that 340 officials in Jammu Division, 251 in Kashmir

Division and 7 in the Project Directorate, SSA had still been attached. It is averred that it was noticed that while some officials were being used for

ministerial work, some were being used for verification of degrees. It was also revealed that some officials were deployed in the centrally

sponsored SSA beyond sanctioned posts even though there was no functional requirement for their deployment in the office while at the same time

various schools continued to face acute shortage of teachers. Faced with such situation, the Government, respondent No. 1, issued order No.

260-Edu of 2016 dated 02.02.2016 whereby general directions were issued to the Directors and other field functionaries for detachment of

attached officials. Since the Administrative Department alone is empowered to transfer officials from one Directorate to another and from SSA to

the Directorates, therefore, the officials deployed in SSA were repatriated by the Government and their further posting was left to be done by the

concerned cadre controlling authority.

20. Going by the above factual details, there remains no scope to doubt the object behind the whole exercise. It is not that only the petitioner,

because of him being the President of the Union was repatriated and transferred, or that the other members of the Union alone, mentioned in the

petition to support the ground of mala fides, were transferred; the annexures placed on record by the petitioner himself demonstrate that large

number of teachers/Masters/I/C-Headmasters were so transferred. It is not a case where the petitioner has been singled out muchless for any extraneous consideration or that there has been any pick and choose resorted to by respondent No. 2. It otherwise sounds strange and illogical that a Master is designated as Incharge Headmaster, but does not actually hold such a charge. The relevant Recruitment Rules do not envisage any such designation. Such a designation is a misnomer. Incharge designations connote a situation where a person is actually put in the charge of a higher post to factually discharge its functions. It speaks of exigency of a service demanding immediate and effective arrangements, which cannot be used as a garb for conferment of fortuitous benefit. Be that as it may, coming back to the news item as carried by the Kashmir Monitor, the portions within quotes therein, even if attributable to respondent No. 2, though he has specifically denied the same and produced the contradicting material on record, speak of cleaning the system and bringing reforms in the Education Department. Saying that the union leaders will also have to go to the schools to teach students would not in anyway come within the definition of mala fides. They are really being paid their salaries from public money only for that purpose. In fact, in the very same news item, it is reported that the petitioner himself had said that he, being a government employee, is ready to serve anywhere he is posted, be it a far flung area. This is not any concession on his part, transfers and postings are exigencies of service. If a government servant feels aggrieved of his transfer on legally recognised grounds, the law has provided a remedy; he has a right to approach the Court of law. It is true that right to form associations is constitutionally guaranteed, but this right carries with it certain limitations as well. Right to form an association or union does not reserve or create a right in any union office bearer to seek posting of his choice or to refuse to obey a transfer and posting ordered in the interests of administration. The right to form an association or a union does not mean right to achieve every object, nor does it confer a privilege or grant a license on any leader of an association or union to obliterate the hedges of discipline and abandon or shirk his official duty for which he is being paid his salary.

21. Looking at it cumulatively, wholesomely and from broader perspective, it cannot be said that transfer of the petitioner is not based on the

honest intention or good faith or that the power has been exercised for extraneous, irrelevant and/or for any non-germane consideration.

22. It may be observed here that during the course of hearing, the learned counsel for the petitioner sought to buttress his submissions by the

judgments of the Supreme Court in *Asom Rastrabhasa Prachar Samiti v. State of Assam*, AIR 1989 SC 2126; *Suresh Chandra Sharma*

v. Chairman, UPSEB, 2005 AIR SCW 1133 and *Gambhirsinh R. Dekare v. Falgunbhai Chimanbhai Patel*, (2013) 3 SCC 697 I have

minutely gone through these judgments. There is nothing in these judgments relevant to the point at issue in the present writ petitions. On the

contrary, law is settled that transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential

condition of service. Reference in this connection may be made to the decision of the Supreme Court in *State of U. P. v. Gobardhan Lal*, AIR

2004 SC 2165 cited and relied at the Bar by Mr. Mahfooz Nazki, learned counsel appearing for respondent No. 4. The relevant paragraphs of

the judgment are quoted hereunder:

7. It is too late in the date for any Government servant to contend that once appointed or posted in a particular place or position, he should

continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but

also implicit as an essential condition of service in the absence of any specific indication to the contrary in the law governing or conditions of

service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or

Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for

any or every type of grievance sought to be made. Even administrative guidelines for regulating transfer or containing transfer policies at best may

afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of

depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by

exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale

of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines

cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is

made in violation of any statutory provision.

8. A challenge to an order of transfer should normally be eschewed. and should not be countenanced by the Courts or Tribunals as though they are

Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned.

This is for the reason that Courts or Tribunals cannot substitute their own decisions in the matter of transfer for that of competent authorities of the

State and even allegations of mala fides when made must be such as to inspire confidence in the Court or are based on concrete materials and

ought not to be entertained on the mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing

reasons, no interference could ordinarily be made with an order of transfer.

9. The very questions involved, as found noticed by the High Court in these cases, being disputed questions of facts, there was hardly any scope

for the High Court to generalise the situations based on its own appreciation and understanding of the prevailing circumstances as disclosed from

some write ups in journals or newspaper reports. Conditions of service or rights, which are personal to the parties concerned, are to be governed

by rules as also the inbuilt powers of supervision and control in the hierarchy of the administration of State or any Authority as well as the basic

concepts and well-recognised powers and jurisdiction inherent in the various authorities in the hierarchy. All that cannot be obliterated by sweeping

observations and directions unmindful of the anarchy which it may create in ensuring an effective supervision and control and running of

administration merely on certain assumed notions of orderliness expected from the authorities effecting transfers.

The aforesaid judgment squarely covers the points raised in the instant writ petitions, including the one that certain guidelines framed pursuant to

Government order No. 622-Edu of 2015 dated 22.12.2015 were violated. Above being the position of law enunciated by the Apex Court, the

ground of mala fides, as discussed above, is not made out. It is worthy of notice

here that the petitioner alleges that respondent no.2 was annoyed because of the representation against certain transfers made by him to the Government which prompted respondent No. 2 to issue the press report in question. The news item, relied upon by none other than the petitioner to support the allegation of mala fides, instead speaks of the gherao by the Kashmir Teachers Form of the Directorate of School Education which, according to the newspaper report, was the occasion for the Director to make the statement in question. The very genesis of the statement is thus also contradicted.

23. Contesting the claims and allegations of the petitioner, Mr. M. I. Dar, learned counsel appearing for respondent no. 1, cited and relied upon some decisions of the Supreme Court. I will briefly refer to few of these decisions hereunder.

24. In *Quamarul Islam v. S. K. Kanta*, AIR 1994 SC 1733 at p 39, the Supreme Court held, ""newspaper reports by themselves are not evidence of the contents thereof. Those reports are only hearsay evidence. These have to be proved and the manner of proving a newspaper report is well settled. Since, in this case, neither the reporter who heard the speech and sent the report was examined nor even his reports produced, the production of the newspaper by the Editor and publisher, PW4 by itself cannot amount to proving the contents of the newspaper reports. Newspaper is at the best secondary evidence of its contents and is not admissible in evidence without proper proof of the contents under the Indian Evidence Act"".

25. In *E. P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3 at p 92, it was held, ""secondly, we must not also overlook that the burden of establishing mala fides is very heavy on the person who alleges it. The allegations of mala fides are often more easily made than proved, and the very seriousness of such allegations demands proof of a high order of credibility"".

26. In *Kedar Nath v. State of Punjab*, AIR 1979 SC 220 it was observed that although the appellant therein had based his case almost entirely on mala fides, he did not succeed in proving the allegation. What he had to prove was not malice in its legal sense, as that was not his case; he had to prove malus animus, indicating that the respondent State was actuated either

by spite or ill will against him, but no such particulars were furnished by him. The appellant could also not establish lack of bona fides.

27. In *S.C. Saxena v. Union of India*, (2006) 9 SCC 583 the Supreme Court observed that a government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances. It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed.

28. In *National Hydroelectric Power Corpn. Ltd. v. Shri Bhagwan*, (2001) 8 SCC 574 the Supreme Court laid down that unless an order of transfer is shown to be an outcome of mala fide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals cannot interfere with such orders as a matter of routine, as though they are the appellate authorities substituting their own decision for that of the management, as against such orders passed in the interest of administrative exigencies of the service concerned.

29. In *Chief G. M., N. E. Telecom Circle v. Rajendra Ch. Bhattaeharjee*, AIR 1995 SC 813 it was laid down that a government employee or any servant of a Public Undertaking has no legal right to insist for being posted at any particular place. The transfer of a public servant made on administrative grounds or in public interest should not be interfered with unless there are strong and compelling grounds rendering the transfer order improper and unjustifiable.

30. In *Rajendra Roy v. Union of India*, (1993) 1 SCC 148 the Apex Court observed that it may not be always possible to establish malice in fact in a straight-cut manner. In an appropriate case, it is possible to draw reasonable inference of mala fide action from the pleadings and antecedent facts and circumstances. But for such inference there must be firm foundation of facts pleaded and established. Such inference cannot be drawn on the basis of insinuation and vague suggestions.

31. Applying the law so enunciated by the Supreme Court from time to time to the facts attendant to the instant writ petitions, neither any mala fides against the respondents, more so against respondent No. 2, are made out, nor is infraction of any statutory rule governing the transfers in

Education Department brought to the notice of the Court. These writ petitions, consequently, deserve to be dismissed, being without any merit and unnecessary.

32. Further, it may also be mentioned here that Government order No. 26-Edu of 2016 dated 02.02.2016, while ordering repatriation of the officers/officials working in the Project Directorate of SSA, in express terms stipulated that these officials are deemed to have been relieved from SSA and shall report to the authorities as indicated in Annexure 'A' thereto, who shall issue their orders of posting within three days. Thus the petitioner stood relieved from SSA with the issuance of the aforesaid Government order on 02.02.2016 itself. Further, respondent No. 2, to whom the petitioner was enjoined to report, in turn issued order dated 03.02.2016 ordering the posting the petitioner. Strictly speaking, thus the Government order dated 02.02.2016 stood implemented and its follow up action also stood completed as on the date this Court passed order dated 04.02.2016. Once the action that a government order contemplates is completed, the operation of the order comes to an end and it is reduced to nothing more than a record of reference. Had the Government order not contained the words ""are deemed to have been relieved"", the position may have been different.

33. For all what has been discussed, observed and held here in above, these writ petitions are dismissed together with the connected miscellaneous petitions.

34. It is reiterated here that though the action that the government order dated 02.02.2016 contemplated was completed the moment it was issued, yet for maintenance of sanctity of the Court order dated 04.02.2016, it is ordered that interim directions, if any, subsisting shall stand vacated.

35. No order as to costs.