

(2002) 07 GUJ CK 0119

In the Gujarat High Court

Case No : Special Civil Application No. 6340 of 2002

Hardik P. Shah

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 10-07-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 22 GLH 298

Hon'ble Judges : Daya Saran Sinha, C.J.;J.M. Panchal, J

Bench : Division Bench

Advocate : Ishverlal J. Naik, for the Appellant;

Final Decision : Dismissed

Judgement

D.S. Sinha, C.J.—Claiming himself to be a public spirited citizen interested in public services to the common people of District Valsad, Mr. Hardik Pravinchandra Shah, the petitioner, by means of instant writ petition under Article 226 of the Constitution of India, based on cultered pleadings totally devoid of relevant data pertaining to material facts and particulars regarding the alleged mala fide and extraneous consideration for transferring Mr. N. N. Komar, an LPS. Officer from the District of Valsad, seeks intervention of this Court, and prays that the Court may direct the respondents to withdraw and cancel the order of transfer. Apart from the shortcomings noticed above, it is to be noted that the petition is not accompanied by the order of transfer which is sought to be assailed.

2. It is not disputed that Mr. N. N. Komar belongs to the cadre of transferable service, and the transfer of an incumbent belonging to transferable cadre of service is an incident of his service. Ordinarily and basically, the matter of transfer of an employee is a matter between him and the employer. In the instant case, the matter is between Mr. N. N. Komar and the respondents.

3. As pointed out by the Hon"ble Supreme Court in the case of Gujarat Electricity Board and Another Vs. Atmaram Sungomal Poshani, , the incumbent aggrieved

by the transfer may make a representation to the relevant authority. In the instant case, if Mr. N. N. Komar is aggrieved, he should make representation to relevant authority against his transfer impugned herein, and it will be for that authority to consider the grievance of Mr. N. N. Komar. In case his representation is rejected, then he will have no choice but to carry out the order of transfer.

4. According to the petitioner, instant petition is by way of Public Interest Litigation. But, on the facts and circumstances as they emerge from the petition, the Court perceives that the petition has been tiled not for serving the professed cause of people at large, but it is designed and aimed to espouse the cause of Mr. N. N. Komar. Indeed, it is Private Interest Litigation. Instant petition, in the opinion of the Court, is not bona fide. It is totally devoid of substance and merits dismissal. It is dismissed accordingly.