
(2010) 11 RAJ CK 0021
In the Rajasthan High Court
Case No : Civil Writ Petition No. 14685 of 2010

Jagdish Mishra

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 01-11-2010

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2010) 11 RAJ CK 0021

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajay Rastogi, J.—The Petitioner, on being promoted as Lecturer (Hindi) on the recommendations of the DPC, was transferred vide order impugned dt. 16/09/2010, as alleged, at the distance of 450 Kilometers.

2. Counsel submits that the Petitioner is heart patient and because of community bias, he has been transferred, otherwise, all other incumbents, who were also promoted vide order impugned, have been allowed to continue at the same place of their posting.

3. Counsel submits that on appeal being preferred, the learned Tribunal admitted the same but has declined to pass interim order vide order impugned dt. 26/10/2010 which has been assailed in the instant petition.

4. The learned Tribunal, while admitting the appeal, assigned reasons for declining to grant interim order as prayed for vide order impugned dt. 26/10/2010 and has taken note that the Petitioner was promoted and was transferred on promotion under order impugned which appears to have been prevailed upon while declining grant interim relief prayed for. Apart from it, merely because the interim order as prayed for has been declined by the Tribunal, in the considered opinion of this Court, will not give rise to examine the same under limited scope of judicial review under Article 226 & 227 of the

Constitution of India unless it is perse bad or the order impugned has been passed with certain collateral purposes which is not the case of the Petitioner.

5. Consequently, the writ petition, being devoid of merit, is hereby dismissed.

6. However, while deciding the appeal of the Petitioner, the learned Tribunal may not be influenced with the observations made by this Court in the present order and decide on merits in accordance with law.