

(2021) 10 DEL CK 0037

In the Delhi High Court

Case No : Civil Writ Petition No. 11469 Of 2021

Komendra Prakash Gautam

APPELLANT

Vs

Kendriya Vidyalaya Sangathan & Ors

RESPONDENT

Date of Decision : 06-10-2021

Acts Referred:

Citation : (2021) 10 DEL CK 0037

Hon'ble Judges : Rajiv Shakdher, J; Talwant Singh, J

Bench : Division Bench

Advocate : Devesh Chauvia, Anil Nag

Final Decision : Disposed Of

Judgement

RAJIV SHAKDHER, J

CM APPLs. 35304-05/2021"

1. Allowed, subject to just exceptions."

W.P.(C) 11469/2021"

CM APPL. 35303/2021[Application filed on behalf of the petitioner for interim relief]'

CM APPL. 35306/2021[Application filed on behalf of the petitioner for taking on record additional documents]'

2. With the consent of the counsel for the parties, the writ petition is taken up for hearing and final disposal.'

3. This writ petition is directed against the interlocutory order dated 27.09.2021, passed by the Central Administrative Tribunal (in short 'the Tribunal') in O.A. No.2108/2021.

3.1 The petitioner had approached the Tribunal against his transfer order, dated 27.08.2021, passed by the Deputy Commissioner, Kendriya Vidyalaya Sangathan.'

3.2. A perusal of the impugned order shows that, the petitioner has assailed his transfer order on the following grounds:'

(i) The order has been passed by an incompetent authority.'

(ii) The order is mala fide.'

(iii) The order is punitive in nature."

3.3. Mr. Devesh Chauvia, who appears on behalf of the petitioner, says that, the petitioner is retiring in the next three years, and therefore, as per respondents guidelines i.e., the Transfer Guidelines of Kendriya Vidyalaya Sangathan 2021, he cannot be transferred.'

3.4. We have noticed, upon reading the impugned order of the Tribunal, that, they have granted time to the respondents to file a reply in the matter, and have kept the matter for consideration qua interim relief sought, vis-a-vis transfer order dated 27.08.2021, on 25.10.2021.'

3.5. Given this position, Mr. Anil Nag, who appears on advance notice on behalf of the respondents, says that, there are good and robust administrative reasons as to, why the petitioner should be transferred.'

4. In our opinion, these are matters [as referred to hereinabove], which the Tribunal needs to examine, and pass orders, one way or the other, either' with regard to the interim relief sought by the petitioner, or in the alternative, render a decision in the main matter.'

4.1. Since the Tribunal, as noticed above, has kept the matter for consideration on the aspect of interim relief, on 25.10.2021, we do not think it fit to make any observations as to the merits of the petitioner's case.'

4.2. However, we find weight in the submission of the counsel for the petitioner that, if the respondents were to effect the transfer of the petitioner between now and 25.10.2021, the O.A. filed by petitioner, i.e., OA No.2108/2021, would be rendered infructuous.'

5. Accordingly, the writ petition is disposed of with the direction that, the respondents will maintain status quo till the Tribunal takes up the matter for hearing, on 25.10.2021.

6. It is made clear that, the Tribunal will be free to pass an appropriate order, including an order to either continue or modify, or even vacate the status quo order passed by us today, albeit, after factoring the contentions advanced on behalf of the parties.

7. Consequently, pending applications shall also stand closed.