
(1989) 10 RAJ CK 0024
In the Rajasthan High Court
Case No : Civil W.P. No. 3282 of 1989

Om Prakash Sharma

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 18-10-1989

Acts Referred:

Citation : (1992) 1 LLJ 422 : (1989) 2 RLW 422 : (1990) 1 WLN 594

Hon'ble Judges : N.C. Sharma, J

Bench : Single Bench

Advocate : S.R. Surana, for the Appellant; S.K. Koshote, for Durga Shankar Soni and Lokesh Sharma, for the Respondent

Final Decision : Allowed

Judgement

N.C. Sharma, J.—The petitioner has prayed for quashing of an order of the Director, Ayurvedic Department, Rajasthan, Ajmer dated July 29, 1989 (Annexure-3) whereby he has been transferred from Bundi to Silore.

2. A rule was issued on August 21, 1989 returnable within a week against the respondents to show cause why the writ petition may not be admitted and disposed of. On August 28, 1989, counsel for the State sought time to file reply. He was allowed time to file reply and the matter was directed to be listed after six weeks. No reply was filed on behalf of respondents Nos. 1 and 2. Thereafter Durga Shankar Soni who had, by the same order, been transferred to Bundi, intervened to be impleaded as a party and he was made a party in the case.

3. If by the expression " Ayurved Vibhag" I rightly understand that it is a department charged with the public duty of looking after the health of the residents of this State through the medium of Ayurvedic Medicines which may be prescribed by Ayurved Vaidyas appointed by the State and posted for the purpose, and, then, if I look into the facts of the present case, the fact is firmly established as to how irresponsible this public welfare department and its Director acts and works. One only develops a high mistrust against this public

functionary who heads this department. Ayurvedic Aushdhalyas, Government Hospitals and Dispensaries are "public welfare institutions". The State Government and its instrumentalities and agents are accountable to the people of this State as to how these institutions function. It is glaringly brought home that the Director who heads this Ayurved Department is entirely unfit and incompetent to hold such a responsible office. He acts only as a most obedient servant not only of the Ayurved State Minister but even of the Private Secretary to the Ayurved Minister. The very mention and endorsement made in Ex.3 at Item No. 1 goes to show that all transfers made by Ex.3 were only under the directions of the State Ayurved Minister. Nothing can be more mala fide than this that the State Ayurved Minister or his Private Secretary instructs the Director to make transfers. The Director does not apply his own mind at all. He simply obeys the command mechanically and also literally and obediently. Such transfers cannot be allowed to sustain and they should be struck down as being arbitrary and as being suffering from malice in law.

3-A. How carelessly this Welfare State looks after the health of its citizens is clear from the very fact that during the period from April 30, 1988 to July 29, 1989 (i.e., within a short span of one year and three months) it has transferred the petitioner six times. This shows utter mis-management in the Government and its departments. There must be some height of abuse of power. It is being abused more and more as is evident from the growing number of cases coming to this Court daily which are only revealing gross governmental and public administration mismanagement, gross abuse of power and rampant favouritism and nepotism. The very face of 5 Ex. 3 smacks of them. The so-called (and favourately liked to be so-called as) "desire transfers" should stop forthwith.

4. I allow this writ petition and quash the transfer order of the petitioner from Bundi to 10 Silore made by the Director, Ayurved Department, Rajasthan, Jaipur at the behest of the State. Minister for Ayurved Department by his order dated July 29, 1989 (Annexure-3).

5. The State of Rajasthan will bear the costs 15 of the petitioner of this writ petition.