

(2004) 01 AHC CK 0203

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 2454 of 2004

Shashi Rai (Smt.)

APPELLANT

Vs

The State of U.P. and Others

RESPONDENT

Date of Decision : 22-01-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 101 FLR 75 : (2004) 1 UPLBEC 1002

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : J.N. Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard Counsel for the petitioner and perused the record.

2. The petitioner alleges to be an Auxiliary Nurse and Midwife and is presently posted at Duddhhi, District Sonbhadra. The grievance of the petitioner is that by the impugned order dated 22.11.2003, allegedly passed under political pressure, she has been transferred with immediate effect from the Community Health Centre, Duddhhi, District Sonbhadra to the Primary Health Centre, Nagwan in the same district. She alleges that her transfer in mid-academic session from Community Health Centre, Duddhhi to Primary Health Centre, Nagwan, which is more than 130 Kms. away from Duddhhi where her son is studying in Class VI, will adversely affect the study of her son, specially when his annual examination has to commence within three months.

3. Transfer of Government servants is the exigency of service and this Court normally does not interfere with the same unless and until the transfer order is arbitrary and mala fide. The petitioner was posted at Duddhhi in March, 2000 and by the impugned order she is being transferred from there after about four years, which cannot be said to be arbitrary or mala fide.

4. In (2002) 10 SCC 226, the Apex Court has held that an administrative

decision for political consideration does not necessarily mean that it suffers from legal mala fides and cannot be challenged if it has been taken by a competent authority in accordance with law and further that altering an administrative decision does not necessarily mean that there has been legal mala fides. Even where the fresh decision is a political one, it cannot be challenged on ground of legal mala fides if it has been taken by a competent authority in accordance with law.

5. This is not a fit case for interference by this Court under Article 226 of the Constitution.

6. The writ petition is accordingly dismissed. However, the operation of the impugned order shall remain in abeyance for a period of three months.