
(2020) 02 MP CK 0193

In the Madhya Pradesh High Court

Case No : Writ Appeal No. 2080 Of 2019

Vineet Kumar Saxena

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 28-02-2020

Acts Referred:

Right Of Children To Free And Compulsory Education Act, 2009 — Section 25, 27(I)
Madhya Pradesh Uchcha Nyayalaya (Khand Nyayapeeth Ko Appeal) Adhiniyam, 2005
— Section 2(1)
Constitution Of India, 1950 — Article 226

Citation : (2020) 02 MP CK 0193

Hon'ble Judges : Rajeev Kumar Shrivastava, J;Sheel Nagu, J

Bench : Division Bench

Advocate : D.P. Singh, Ankur Mody

Final Decision : Dismissed

Judgement

(1) The instant intra-court appeal preferred u/S 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyayapeeth Ko Appeal) Adhiniyam, 2005,

assails the final order passed by learned Single Judge dated 06.12.2019 in WP.26393/19 exercising writ jurisdiction u/Art.226 of the Constitution

dismissing the petition in question by which challenge was unsuccessfully made to the transfer of petitioner from Government Girls Middle School,

Dinara to Government Primary School, Bheempur, Niboda, Khaniyadhana, District Shivpuri.

(2) Learned Single Judge repelled the said challenge on the anvil of Section 25 of the Right of Children to Free and Compulsory Education Act, 2009

(â??2009 Actâ? for brevity) by holding that impugned transfer of the petitioner may have led to disturbance in the Pupil-Teacher ratio statutorily

required to be maintained as per Section 25 of 2009 Act but since it lies within

the domain of employer to ensure the said ratio, the breach of the same does not bestow any right upon any transferred employee to successfully challenge his/her transfer on that count alone.

(3) This Court initially was of the view that since the petition was dismissed in limine, the State may be asked to respond to aforesaid ground of violation of Section 25 of 2009 Act by filing reply, however, after going through the scheme of 2009 Act, this Court decided to proceed and dispose of this appeal in the following manner.

(4) 2009 Act was promulgated as a manifestation of right to elementary education which was introduced as fundamental right by incorporation of Art.21A by way of Constitution [Eighty-sixth Amendment] Act, 2002 which was brought into effect from 01.04.2010.

(5) Section 25 of 2009 Act provides, thus:

25. Pupil-Teacher Ratio. (1) [Within three years] from the date of commencement of this Act, the appropriate Government and the local authority shall ensure that the Pupil-Teacher Ratio, as specified in the Schedule, is maintained in each school.

(2) For the purpose of maintaining the Pupil-Teacher Ratio under sub-section (1), no teacher posted in a school shall be made to serve in any other school or office or deployed for any non-educational purpose, other than those specified in section 27.

(5.1) A bare reading of the aforesaid provision in juxtaposition to the object sought to be achieved by 2009 Act, it is clear as day light that the government has to ensure the pupil-teacher ratio as per Section 25 for maintaining quality in elementary education. The 2009 Act is predominantly promulgated for the benefit of all children of the age between 6 to 14 years. The breach of this pupil-teacher ratio may confer a justiciable right to the student of elementary education, but cannot bestow any justiciable right upon a teacher who is transferred entailing disturbance in pupil-teacher ratio at the school from where he/she is transferred out. This is so because the 2009 Act is children-centric and not teacher-centric.

(6) The sole ground of the petitioner before this Court is that the impugned transfer leads to disturbing the statutory pupil-teacher ratio provided u/Sec.25 of 2009 Act.

(7) In view of above discussion based on the nature of the scheme of 2009 Act,

it is evident that the petitioner who is a teacher does not have any justiciable right to successfully assail his transfer solely on the ground that the same causes disturbance to the pupil-teacher ratio prescribed in 2009 Act.

(8) Consequently, this Court does not find any justifiable reason to interfere in the well-reasoned order of learned Single Judge. Accordingly, present appeal stands dismissed, sans cost.