

**HIGH COURT OF MADHYA PRADESH****BENCH AT GWALIOR****(DB : Sheel Nagu & Rajeev Kumar Shrivastava, JJ.)****WA.2035.2019****Devendra Rajoriya****Vs.****State of M.P. and others**

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**For appellant:**

Shri Girdhari Singh Chauhan, learned counsel for the appellant.

**For Respondents:**Shri Ankur Mody, learned Additional Advocate General for respondent/State.

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**WHETHER REPORTABLE :**  Yes  No**Law Laid Down:**

The breach of teacher pupil ratio provided under Section 25 of the Right of Children to Free and Compulsory Education Act, 2009 does not give a justiciable right to a teacher to challenge the transfer on the ground of the transfer disturbing pupil-teacher ratio.

**Significant Paragraph Numbers:** 4 to 8

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**ORDER****(28/02/2020)****Per: Sheel Nagu, J.**

(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.26384/19 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 [Primary Teacher] from UEGS Dharam Singh Ka Pura, Pithan, Block Ater, District Bhind to Primary School Kamanpura, Block Mehgaon, District Bhind.

(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 (“2009 Act” 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 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)** 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.

**(Sheel Nagu)**  
**Judge**  
**28/02/2020**

**(Rajeev Kumar Shrivastava)**  
**Judge**  
**28/02/2020**