

**THE HIGH COURT OF MADHYA PRADESH**

**Writ Petition No.20011 of 2021  
(Smt. Aliya Ali Vs. The State of Madhya Pradesh and others)**

**Jabalpur, Dated : 23.09.2021**

Shri Rajesh Dubey, learned counsel for the petitioner.

Shri Amit Pandey, learned panel lawyer for the respondents/State.

Challenge is being made to the transfer order dated 31.08.2021 passed by the respondent No.3 whereby the petitioner has been transferred from Government Higher Secondary Tinkheda, Block Saunsar to Government Higher Secondary School, S.B.S. Amarwada District Chhindwara at a distance of 110 Kms.

The grounds for challenging the transfer order is that the petitioner has recently been transferred in December, 2019 and in pursuance to the transfer order she was relieved on 09.06.2020 and joined at the transferred place of posting and again by the impugned order she has been transferred. This amounts to frequent transfers. Another ground taken is that the husband of the petitioner has passed away due to Covid-19 Pandemic in the month of April, 2021. A recommendation has been made by the local MLA for cancellation of the transfer order of the petitioner. She has already preferred a detailed representation to the authorities that is pending consideration and has not been decided till date.

In such circumstances, an innocuous prayer is made to direct the respondents/authorities to consider and decide the pending representation at an early date and till then the petitioner may be permitted to continue at the present place of posting. She has not been relieved till date and nobody has been posted in place of the petitioner and in such circumstances there is no

impediment in directing for working of the petitioner at the present place.

Per contra, learned counsel for the State has opposed the prayer and submitted that the transfer being a condition of service and the Government employee is duty bound to comply with the transfer order. It is submitted that the petitioner has been transferred within a short distance of 110 kms. It is further submitted that as far as other grounds regarding representation are concerned, the same will be dealt with by the Authorities and decided expeditiously. He has placed reliance in the Division Bench of this Court in the case of **R.S.Choudhary Vs. State of M.P. and others** reported in **ILR (2007) MP 1329** and **Mridul Kumar Sharma Vs. State of M.P.** reported in **ILR (2015) MP 2556**.

Heard the learned counsel for the parties and perused the record.

It is submitted that in pursuance to the earlier transfer order, the petitioner has pointed out her joining to be on 09.06.2020 but Annexure P-2 does not contain any date of submission. On the contrary the date of submission before the District Education Officer is shown to be 18.12.2020 as is reflected from the stamp available on the documents. Transfer is at a distance of 110 kms. As far as hardship being faced by the petitioner due to death of her husband is concerned, that death was taken place in the month of April, 2021 and now the hardship must have been over and the grounds taken will be considered by the authorities while deciding the representation.

Considering the overall facts and circumstances of the case and as the petitioner could not make out any ground for consideration for grant of interim relief in the matter, warranting interference in the transfer order in view of the judgment passed by the Division Bench of this Court in the case

of **R.S.Chaudhary Vs. State of M.P. and others** reported in **ILR (2007)**

**MP 1329** wherein it is held as under :-

*"Transfer Policy formulated by State is not enforceable as employee does not have a right and courts have limited jurisdiction to interfere in the order of transfer. Court can interfere in case of mandatory statutory rule or action is capricious, malicious, cavalier and fanciful. In case of violation of policy, proper remedy is to approach authorities by pointing out violation and authorities to deal with the same keeping in mind the policy guidelines."*

and the Division Bench of this Court in **Mridul Kumar Sharma Vs. State of M.P. Reported in I.L.R (2015) MP 2556**, wherein it is held as under :

*"Transfer of a Government servant appointed to a particular cadre of transferable posts from one place to other is an incident of service. No Government servant or employee of public undertaking has legal right for being posted at any particular place. Transfer from one place to other is generally a condition of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the Public Administration. Whenever, a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification, or cancellation of the transfer order. If the order of transfer is not stayed, modified, or cancelled the concerned public servant must carry out the order of transfer. If he fails to proceed on transfer in compliance to the transfer order, he would expose himself to disciplinary action under the relevant Rules, as has happened in the instant case. The respondent lost his service as he refused to comply with the order of his transfer from one place to the other".*

In such circumstances, no interim relief can be granted to the petitioner and the only remedy available to the petitioner is to file a representation to the respondents/Authorities and get the representation decided, therefore, this Court deems it appropriate to dispose of this petition with a direction to the petitioner to file a fresh representation to the

respondent No.3 within a period of seven days and in case such a representation is preferred, the respondent No.3 is directed to dwell upon the representation and pass a self contained speaking order and communicate the outcome to the petitioner within a period of 15 days from the date of receipt of certified copy of this order.

Needless to mention here that this Court has not commented upon the merits of the case.

With the aforesaid observations, this petition is **disposed of**.

**(Vishal Mishra)**  
**Judge**

**AM.**