



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 12766 of 2025

Smt Kalpana Sharma

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Sanjay Singh, Vashishtha Tiwari
Counsel for Respondent(s)	:	C.S.C., Girijesh Kumar Tripathi

Court No. - 2

HON'BLE PRAKASH PADIA, J.

1. Petitioner earlier approached this Court by filing a petition being Writ A No.15296 of 2024, which was disposed of vide judgement and order dated 26.09.2024, which reads as follows :-

"1. Heard Sri Vashishtha Tiwari, learned counsel for the petitioner, learned Standing Counsel on behalf of respondent nos. 1 and 2 and Smt. Archana Singh, learned counsel appearing on behalf of respondent nos. 3 and 4.

2. The petitioner has preferred the present petition with the following prayer:-

"(a) issue writ order or direction in the nature of mandamus directing the respondents to consider and pass an appropriate order in respect of transfer of the petitioner from District Shaharanpur to District Ghaziabad within stipulated period.

(b) issue writ order or direction in the nature of mandamus directing the respondents to consider the case of the sympathetically as per transfer policy notified by the respondents dated 07.06.2023 within stipulated period."

3. It is argued by learned counsel for the petitioner that the petitioner is suffering from breast cancer, the treatment of which is going on in Max Cancer Centre at Ghaziabad, photo copy of the entire medical report of the doctor alongwith other medical reports were appended as Annexure no. 2 to the present petition. It is argued that at present, the petitioner is working in the District Shahjahanpur. Since the petitioner is facing physical health problem, therefore, she made applications/representations to the authorities concerned from time to time to consider her claim sympathetically or to transfer her from Shahjahanpur to Ghaziabad. Since no action has been taken, hence the present petition.

4. On the other hand, it is argued by Smt. Archana Singh, learned Counsel on behalf of contesting-respondent that in case, the petitioner will move fresh representation ventilating all her grievances before the respondent No. 4 he will consider the same and pass appropriate orders in the matter expeditiously.

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

6. In the facts and circumstances of the case and with the consent of learned counsel for the parties, the present petition is being disposed of directing the petitioner to move fresh representation ventilating all her grievances before the respondent No.4 along with certified copy of this order within a period of three weeks. In case, the petitioner will file fresh representation within the aforesaid period, the respondent No.4 taking into consideration sympathetically the fact that the petitioner is undergoing treatment at Max Cancer Centre, Ghaziabad, will pass appropriate orders on the same, most expeditiously and preferably within a period of four weeks thereafter strictly in accordance with law."

2. Pursuant to the aforesaid claim of the petitioner was rejected by the respondent no.4-Secretary, U.P. Basic Education Board, Prayagraj hence present writ petition.

3. It is argued by counsel for the petitioner that petitioner was initially appointed on the post of Assistant Teacher (Science) in Junior High School, Salempur Pahara, Shahjahanpur on 21.08.2015 and working there since the initial appointment. She has completed more than nine years of service in the institution and in the year 2003 breast cancer was deducted and thereafter surgery has been done and since then she is regularly facing chemotherapy even till date. It is further argued that treatment of the petitioner is going on at Max Cancer Centre, Ghaziabad. The family members of the petitioner is also residing at District-Ghaziabad and her husband namely Sumit Kumar Sharma is also doing private job in District Ghaziabad. The distance of Shahjahanpur from Ghaziabad is 320 km. hence petitioner is facing problems. Earlier representations were made by the petitioner before the authorities seeking her transfer pursuant to the transfer policy dated 07.06.2023. Since no action has been taken hence earlier writ petition has been filed by the petitioner, which was disposed of on 26.09.2024. The order passed in earlier writ petition dated 26.09.2024 is already quoted above. After the aforesaid order was communicated the order impugned has been passed by the respondent no.4 rejecting the claim of the petitioner. Aggrieved against the aforesaid petitioner has preferred present writ petition.

4. While passing the earlier judgement and order dated 26.09.2024 a specific direction was given by this Court to the respondent no.4 to consider the case of the petitioner sympathetically in view of the fact that petitioner is under treatment of breast cancer at Max Cancer Centre,

Ghaziabad. While going through the order impugned the Court is very much shocked and surprise that in place of considering the case of the petitioner sympathetically impugned order has been passed on the ground that there are only two teachers in the institution in question in which petitioner is working and as per policy of the State Government in case there are 36 students at least three teachers are required. Apart from the same, further findings were recorded that in case petitioner will apply online for her transfer as per mutual transfer policy issued by the State Government, the respondents will consider the case of the petitioner.

5. From perusal of paragraph-6 of the aforesaid order, it is clear that one of the ground has been taken that in the institution where the petitioner is teaching there are only two teachers and as per Section 25 of The Right of Children to Free and Compulsory Education Act, 2009 there must be three teachers required in such kind of institution where there are 36 students or more. Every day matters are coming before this Court from perusal of which it is clear that in large numbers of institution where more than 36 students only one teacher is working.

6. From perusal of the facts as narrated above, the Court is of the prima facie opinion that it is more unfortunate that inspite of the fact that specific direction has been given by this Court to the respondent no.4 to consider the case of the petitioner sympathetically but the claim of the petitioner was rejected on merits without considering aspect of the matter.

7. In this view of the matter, respondent no.4-Secretary, U.P. Basic Education Board, Prayagraj is directed to file his personal affidavit within three days failing which he shall remain present before this Court on the next date.

8. Put up as fresh on 20.11.2025.

(Prakash Padia,J.)

November 17, 2025

Pramod Tripathi