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Rectify flaws in teachers' transfer policy: HC to Haryana

CHANDIGARH: Finding lacunae in Haryana government's much touted teachers' transfer policy, the Punjab and Haryana high court has suggested that the state cabinet revisit the policy by bringing in necessary amendments so that teachers with disabilities, especially who are completely blind, should not be transferred without their consent.

Citing famous British theoretical physicist Stephen Hawking the court observed, "We have a moral duty to remove the barriers to participation for people with disabilities....It is my hope this century will mark a turning point for inclusion of people with disabilities in the lives of their societies."

The Haryana government had shifted around 10,000 school lecturers on August 6 and around 27,000 primary teachers and head teachers on September 17 through online as per the new transfer policy. However, no relaxation for teachers with any disability in transfers from one school to another was made.

The HC clarified that the directions hereby issued awaiting cabinet revisit of the policy were not meant for teachers/lecturers who suffer from 100% blindness and are facing disciplinary proceedings for gross misconduct involving moral turpitude inviting major punishment, in the present or in the future. Justice Rajiv Narain Raina passed these orders on September 9, while setting aside the transfer of two school cadre lecturers who were completely blind.

Widening the scope of the petition for all such teachers, Justice Raina observed that the writ court is a court of equity and here appears to be an appropriate case to exercise equitable considerations for a request to the Haryana additional chief secretary (secondary education) to remit the matter to the cabinet to review the transfer policy. The review was required to accommodate the claims of petitioners who form a special class by considering a provision in the policy to treat them differently in the larger class of the disabled.

HC sought the state cabinet's intervention after the additional chief secretary (school education) P K Dass policy as it was born in a cabinet meeting. He said relieftransfer in such cases could be granted only after cabinet nod.

The court directions

The Teachers Transfer Policy 2016 needs a special provision for persons suffering from 100% blindness. They should not suffer transfers and posting except by consent

It will be open to the state government to differentiate cases of government servants suffering from 100% blindness from other categories of disability falling under the provisions of the 1995 act such as locomotor disability, hearing impairment and low vision but not complete blindness. In this exercise, the government would be free to make reasonable classification

These orders will not be treated in personam but in rem. That is for every category of teachers from primary to secondary and higher education in Haryana who suffers from complete blindness

Such directions are not meant for teachers/lecturers who suffer from 100% blindness and are facing disciplinary proceedings for gross misconduct involving moral turpitude inviting major punishment, in the present or in the future