



GOVERNMENT OF HARYANA/हरियाणा सरकार
Directorate Elementary Education
मौलिक शिक्षा निदेशालय

Directorate of Elementary Education/मौलिक शिक्षा निदेशालय

शिक्षा, संस्कृति एवं विकास
Education, Culture and Development

School Education, Haryana
विद्यालय शिक्षा, हरियाणा

तमसो मा ज्योतिर्गमय
Lead me from Darkness to Light

E-mail: elementaryps@gmail.com - Site: www.harprathmik.gov.in

सेवा में,

जिला मौलिक शिक्षा अधिकारी,
सोनीपत।

यादी क्रमांक- 8/38-2022 पी0एस (ई0-1)
दिनांक पंचकूला :- 23.08.2022

विषय:- स्कूल बन्द करने की अनुमति प्रदान करने बारे- Jagriti Public School
Rattangarh, Distt. Sonipat.

उपरोक्त विषय पर आपके पत्र क्रमांक जी-4/2022/929, दिनांक 01.04.2022 के
संदर्भ में।

विषयांकित मामले में उपरोक्त संदर्भित पत्र के तहत Jagriti Public School
Rattangarh, Distt. Sonipat स्कूल को बन्द करने सम्बन्धित दस्तावेज निदेशालय में प्राप्त हुए हैं।
उक्त स्कूल को निदेशालय के यादी क्रमांक 3/37-07 पी0एस0(ई0-2), दिनांक 10.10.2007 के तहत कक्षा 1
से 8 तक मान्यता प्रदान की गई थी। अतः भेजे गए दस्तावेजों के आधार पर उक्त स्कूल को बन्द करने की
अनुमति प्रदान करते हुए आपको लिखा जाता है कि स्कूल से सम्बन्धित पूर्ण रिकार्ड सम्बन्धित खण्ड मौलिक
शिक्षा अधिकारी, कार्यालय में जमा करवाना सुनिश्चित करें।

दस्ता

अधीक्षक प्राईवेट स्कूल (ई0)
कृते: निदेशक मौलिक शिक्षा हरियाणा,
पंचकूला।

दिनांक, पंचकूला:- 23.08.2022

पृष्ठांकन क्रमांक -सम-

इसकी एक प्रति निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है:-

1. सचिव, हरियाणा विद्यालय शिक्षा बोर्ड, भिवानी।
2. जिला शिक्षा अधिकारी, सोनीपत।
3. प्रबन्धक, Jagriti Public School Rattangarh, Distt. Sonipat
4. उपनिदेशक, आई0टी0सैल।

31/8/2022

अधीक्षक प्राईवेट स्कूल (ई0)
कृते: निदेशक मौलिक शिक्षा हरियाणा,
NW पंचकूला।

DIRECTORATE OF ELEMENTARY EDUCATION HARYANA, PANCHKULA

Order No. 17/29-2022 ESHM(1)

Dated Panchkula the, 25.08.2022

Whereas, the present COCP No. 1598 of 2022 titled as Vikas V/s Anshaj Singh, IAS in civil writ petition No. 18054 of 2021-Vikas V/s State of Haryana & Others was filed by the petitioner praying therein for quashing the impugned MIS status Annexure P-5 (undated) of petitioner whereby petitioner is shown to mandatorily eligible and action of respondents forcing the petitioner to participate in General Transfer Drive despite being not eligible as well as in view of order dated 27.08.2021 passed in CWP No.15099 of 2021 (Annexure P-6), in the interest of justice. It is further, prayed that operation of impugned MIS status Annexure P-5 (undated) of petitioner may kindly be stayed and/or respondents may kindly be directed not to transfer petitioner and maintain status quo regarding place of posting qua petitioner, during the pendency of the present writ petition, in the interest of justice.

The said petition was connected with CWP No. 1065 of 2022 titled as Satyawar & others Vs. State of Haryana and came up for hearing before the Hon'ble High Court on 11.07.2022 and the following order was passed

"Learned counsel appearing in CWP No.18054 of 2021 submits that the petitioner who is working as a Headmaster with respondents Education Department has a grievance that the petitioner was transferred in zone-II only on 06.11.2019 and is yet to complete the minimum required period for transfer but, the petitioner is being shown eligible for the mandatory transfer, which is incorrect and the contrary to the policy.

Learned State counsel very fairly submits that once the transfer policy is not under challenge and the grievance of the petitioners is only relating to implementation of the same in a particular manner, which according to them is contrary to the policy, the State has no objection in case, the petitioners represent to the Department concerned by raising the said issue and the said issue will be decided by the competent authority before effecting the transfers in pursuance to the transfer policy for the session 2022-23 by passing appropriate speaking order"

Learned counsel for the petitioners submit that the grievance of the petitioners stands redressed in view of the statement of learned State counsel and the petitioners will represent to the department raising their grievance as to why, they should not be considered eligible for the transfer in the general transfer for the session 2022-23 within a period of seven days from today.

Learned counsel for the respondents submits that the representation which will be received within a period of seven days

from today, will be considered by the competent authority and appropriate order will be passed on the same and only thereafter, petitioners will be considered for transfers, if found covered under the policy

Keeping in view the above, the present petitions are disposed of with the liberty to the petitioners to file appropriate representations raising their grievances before the respondents authority within a period of seven days from today i.e. upto 18th of July, 2022 upto 5 pm. In case, any of the petitioners raises grievance, as undertaken by learned counsel for the State, the said representation be considered by the competent authority in accordance with law and appropriate orders on the same be passed and it is only thereafter, the petitioners, if found covered under the transfer policy, they be considered for transfers. The present petitions are disposed of in the above terms.

It is made clear that appropriate order on the representation will be passed and conveyed to those making the representations before effecting the general transfer for the session 2022-23 in the education department.

Civil miscellaneous applications bearing No.CM-5421, 2105 and 36-CWP-2022 are disposed of.

A photocopy of this order be placed on the connected case files numbered above.

That, after receiving the said Court direction from the Hon'ble High Court, the matter of the Claimant has been examined carefully and it has been found that the Claimant was initially appointed as JBT on 20.11.1995 and thereafter he was promoted as C&V Hindi on 02.04.2004. After that the Claimant was promoted as Head Teacher on 08.08.2005. At present, the Claimant is working as Elementary School Head Master since 18.06.2014 and working at Government Senior Secondary School Gujrani (660) District Bhiwani, Zone 1. It is relevant to mention here that the Claimant had participated in Transfer Drive on 06.09.2019 vide which the Claimant was transferred at Government High School Alampur (419) District Bhiwani, Zone 6. It is also relevant to mention here that Sh. Anil Kumar who is working at Government High School Alampur (419) District Bhiwani, Zone 6, also participated in Transfer Drive on 06.09.2019 and was transferred at Government Middle School Bighawali [1040] Block Hathin District Palwal and w.r.t. to the posting of Sh. Anil Kumar a stay order was issued by this Hon'ble High Court in CWP No. 26315 of 2019 titled as Sube Singh & Others V/s State of Haryana & Others. In the compliance of the stay order granted on 17.09.2019 in CWP No. 26315 of 2019 titled as Sube Singh & Others V/s State of Haryana & Others, Sh. Anil Kumar was sent back at previous station i.e. Government High School Alampur (419) District Bhiwani, Zone 6 and a letter was written to District Elementary Education Officer Bhiwani for temporary adjustment of the Claimant in the instant writ petition. The District Elementary Education

Officer Bhiwani had adjusted the Claimant vide order No.15/32-2019 HRM-III (1)/E-2-19/3127-45 dated 30.10.2019 at Government Senior Secondary School Gujrani (660) District Bhiwani, Zone 1 with note that the Officer/Officials will participate in next Transfer Drive compulsorily. The condition was specifically imposed in order No.15/32-2019 HRM-III (1)/E-2-19/3127-45 dated 30.10.2019 that the claimant would have to participate in the next transfer drive compulsorily. The condition was accepted by the claimant and never challenged by him. Further, it is pertinent to mention that transfer is an incidence of service, an employee does not have any vested right for being transferred to or not being transferred from a particular place. Hence, it is mandatory for the Claimant to participate in the upcoming Transfer Drive for regular posting.

Further, it is relevant to mentioned here that the Government of Haryana framed Teachers Transfer Policy dated 29.06.2016 and the same was amended in the year of 2017, 2020 and 2021. Transfers were made under this Teacher's Transfer Policy as amended from time to time to ensure equitable, demand based distribution of teachers/heads to protect academic interests of students and optimize job satisfaction amongst its employees in a fair and transparent manner. Following categories teachers have been asked to participate in transfer drive compulsorily:-

Post of any cadre held by a teacher previously or presently in the school education department in a regular capacity for a period of 5 years or more on the qualifying date in present zone of posting, shall be taken as a deemed vacancy and such teacher shall compulsorily participate in the transfer drive.

Teachers declared surplus from a station as a part of rationalization shall also compulsorily in the transfer drive.

Teachers who have been given temporary manual posting previously due to non-availability of online transfer drive or technical problem or compulsion of administrative or litigational nature.

The employee who were manually adjusted due to various reasons between the time period of two general transfer drives are liable to be compulsorily participate in the next drive and the same has been provided in the un-amended Policy of 2017 itself at Para 2 clause 8(i)b(i) which is reproduced as under:-

b) Deemed Vacancy:

(i) Involuntary deemed vacancy: A post of any cadre (whether teaching or non-teaching), held by a teacher previously or presently in the school education department in a regular capacity for a period of five years or more on the qualifying date in present zone of posting; or

A post occupied by a teacher given temporary manual posting due to non-availability of online transfer drive or technical problems or compulsions of administrative or litigational nature.

As per Para 2 of 8(i)(b)(i) which was originally consisted in the Teacher Transfer Policy of 2017, was inadvertently left out by the Department while amending the policy in

the year of 2021. Thereafter, the same has been incorporated again by the issuance of corrigendum on 25.08.2021. Thus no new provision has been introduced, the corrigendum was issued only to revive the original policy. Relevant portion of the same is reproduced as follow:-

“Involuntary deemed vacancy: A post of any cadre (whether teaching or non-teaching), held by a teacher previously or presently in the School Education Department in a regular capacity for a period of five years of more on the qualifying date in the present zone of posting; or

A post occupied by a teacher given temporary manual posting due to non-availability of online transfer drive or technical problems or compulsion of administrative or litigational nature or on new appointment or on promotion or otherwise.”

It is further clarified vide order dated 16.07.2021/06.09.2021 in interpretation of clauses of Teacher Transfer Policy which is as follows:-

“any posting updated manually between two General Transfer drives would be the criteria to identify a teacher for forceful participation in the GTD (General Transfer Drive)”.

It is further clarified that, Clause 6 – Basic Principles of the Transfer Policy initiate with the words, **“the option once availed and confirmed shall be final and can be changed only under the provisions of this policy”** meaning thereby the candidate has to give the options and the same is to be confirmed by the Department, only then he shall be eligible to get the benefit of stay of 5 years. It is germane to mention here that in manual posting neither the option was given by the employee nor the same was confirmed by the department, therefore he was not entitled to get the benefit of the stay of Five years in that particular Zone. Therefore, there is no conflict of clause 8(i) b(i) with the clause 6 of the Basic Principles of the Teacher Transfer Policy.

In the view of above, it is worthwhile mentioned here that the Claimant was temporarily adjusted at Government Senior Secondary School Gujrani (660) District Bhiwani, Zone 1 with note that the Officer/Officials will participate in next Transfer Drive compulsorily. It is worthwhile to mention here that it is a temporary posting till the General Transfer Drive would not be initiated, it was done in the compliance of stay order of this Hon'ble High Court in CWP No. 26315 of 2019 titled as Sube Singh & Others V/s State of Haryana & Others, and Hence the Claimant should participate in the upcoming Transfer Drive.

Now, the Claimant has raised the contention that the he is not required to participate in the upcoming Transfer Drive as his posting at present school is not for a period of 5 years or more. It is pertinent to mention here that above said condition will be applicable in the case of regular posting not in the temporary posting and the Claimant was posted on temporary basis till the upcoming Transfer Drive initiated.

Keeping in view the matter explained above, the claimant is not entitled for the benefit of not participating mandatorily in upcoming Transfer Drive as he was adjusted/posted at this station on 30.10.2019 on administrative ground as there was an order of stay by the Hon'ble High Court in CWP No. 26315 of 2019 titled as Sube Singh & Others V/s State of Haryana & Others w.r.t. the station on which claimant was transferred in General Transfer Drive on 06.09.2019. However, the present posting of the Claimant is temporary as he was directed to participate in the upcoming Transfer Drive for regular posting on the post of Elementary School Head Master vide order No.15/32-2019 HRM-III (1)/E-2-19/3127-45 dated 30.10.2019 and at present circumstances the claim of the claimant has been rejected in above terms.

I order accordingly.

9/25/8/22
(Anshaj Singh)
Director Elementary Education,
Haryana, Panchkula.

Regd.

To

1. Sh. Vikas [071821], ESHM, aged about 51 years, S/o. Mangal Ram, posted at GSSS Gujrani (660), Distt. Bhiwani. resident of House No 2282, Vill. Jamalpur, Bhiwani Khera Distt Bhiwani

Endst. No.: Even

Dated Panchkula the, *26.08.2022*

A copy of this order is forwarded to following for information and necessary action:

1. The Principal Accountant General (A&E) Haryana, Chandigarh.
2. District Elementary Education Officer, Bhiwani.
3. Sh. Sanchit Punia Advocate, Bar Room, Punjab & Haryana High Court, Chandigarh.
4. IT Cell. To upload the Order on website.

Neelam Singh
Superintendent ESHM *26/8/22*
Directorate of Elementary Education
Haryana, Panchkula 25.08.2022