

# The High Court Of Madhya Pradesh

WP-27626-2019

(KAILASH CHAND AAK Vs STATE OF M.P. THROUGH SCHOOL EDUCATION  
DEPARTMENT AND OTHERS)

Indore, Dated : 18-12-2019

Shri K.C.Raikwar Adv. appeared for Petitioner.

Shri Nilesh Jagtap GA for the respondent / State.

The petitioner has filed the present writ petition challenging the transfer order dated 05/12/2019, by which his services have been transferred from Primary School, Bherupada to Primary School, Himmatkhedi.

2 The said transfer order has been challenged by the petitioner on the ground that the transfer order has been issued during the mid-academic session as well as ban period imposed by the State Government. He further submits that if the said transfer order is executed, then only one teacher will remain in the school. He further relied upon the judgment passed by the Hon'ble Supreme Court in the case of **Director of School Education, Madras and other Vs. O. Karuppa Thevan reported in 1997 MPLSR 657**, in which it has been held that employee should not be transferred during the mid-academic session, unless administrative exigency requires. He further submits that in the present case, it has not been mentioned in the transfer order, for which administrative exigency, the petitioner has been transferred. He further submits that being aggrieved by the said transfer order, the petitioner has already submitted a representation ( Annexure-P/6) dated 12/12/2019 before the respondent/s and prays that an appropriate direction

may be issued to the respondent/s to consider the same within a period of one month.

3 In light of the aforesaid, present petition is disposed of with a direction to respondent no. 2 to consider and decide his representation in accordance with law, within a period of one month from the date of receipt of certified copy of this order.

4 However, till the representation is decided, operation of the impugned order dated 05/12/2019 shall remain stayed. It is made clear that the petitioner shall not entitle to get the benefit of interim-protection, if the representation along with this order is not submitted by the petitioner before respondent no. 2 within a period of seven days from the date of receipt of certified copy of this order.

C c as per rules.

**(Ms. Vandana Kasrekar)**  
**Judge**