



2026:AHC-LKO:52965

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 7054 of 2026

Rishi Katiyar and 3 others

.....Petitioner(s)

Versus

State of U.P. Thru. Secy. Basic Education Lko. and 4 others

.....Respondent(s)

Counsel for Petitioner(s)	: Ramesh Kumar Dwivedi, Prashant Dwivedi
Counsel for Respondent(s)	: C.S.C., Prashant Kumar Singh, Ran Vijay Singh

Court No. - 6

HON'BLE PANKAJ BHATIA, J.

1. Heard Dr. Amrendra Nath Tripathi, learned Senior Advocate assisted by Sri Ramesh Kumar Dwivedi, Sri Prashant Dwivedi, Sri Vijay Nandan Tripathi, Sri Ketan Kumar Sonkar and Sri Jay Karan Mishra, learned Counsel(s) appearing on behalf of the petitioners as well as learned Standing Counsel for the respondents no.1 and 2; Sri Ran Vijay Singh, learned Counsel for the respondents no.3 and 5 and Sri Prashant Kumar Singh, learned Counsel for the respondent no.4.

2. The present petition has been filed by the petitioners, who are teachers, aggrieved against the Pupil-Teacher-Ratio (PTR) mentioned in the list along with Government Order dated 22.06.2026. The PTR annexed with the Government Order dated 22.06.2026, according to the

petitioners, violates the mandatory provisions of The Right of Children to Free and Compulsory Education Act, 2009 (in short “the RTE Act”).

3. The facts in brief are that the petitioners, who were appointed as Assistant Teachers with the schools run by the respondent-authorities, were assigned the districts in terms of the Uttar Pradesh Basic Education (Teachers) (Posting) Rules, 2008 (hereinafter referred to as “the Posting Rules”) and are working. The Posting Rules itself provides that the appointment of the petitioners, when made, was for a particular district and the posts were not transferable except in terms of the prescriptions contained in Rule 8 of the said Posting Rules, particularly Rule 8(2)(d) as well as in terms of the Rule 21 of The Uttar Pradesh Basic Education (Teachers) Service Rules, 1981 (in short “the Service Rules”). Rule 8(2)(d) of the said Posting Rules as well as Rule 21 of the Service Rules reads as under:

“Rule 8(2)(d) of the Transfer Posting Rules

(d) In normal circumstances the applications for inter-district transfers in respect of male and female teachers will not be entertained within five years of their posting. But under special circumstances, applications for inter-district transfers in respect of female teachers would be entertained to the place of residence of their husband or in law's district.

Rule 21 of the Service Rules, 1981

21. Procedure for transfer. There shall be no transfer of any teacher from the Rural Local area to an Urban Local area or vice-versa or from one Urban Local area to another of the same district or from local area of one district to that of another district except on the request of or with the consent of the teacher himself and in either case approval of the Board shall be necessary”

4. Although, the provisions for transfer are contained in the Rules as referred above, on the request being made, the State Government issued a Government Order dated 04.06.2026 (Annexure-3 to the writ petition)

whereby, a policy decision was taken for inter-district transfer of the teachers in terms of the circular issued by the Board. The relevant provisions for the purpose of transfer are contained in Clause 3 of the Government Order dated 04.06.2026, which reads as under:

“3-उल्लेखनीय है कि बेसिक शिक्षा परिषदीय विद्यालयों में कार्यरत अध्यापकों द्वारा अन्तर्जनपदीय स्थानान्तरण हेतु बड़ी संख्या में अनुरोध किया जा रहा है। उक्त के दृष्टिगत मानवीय दृष्टिकोण / विशेष परिस्थिति के आधार पर वर्तमान शैक्षिक सत्र 2026-27 में परिषदीय विद्यालयों में कार्यरत शिक्षक/शिक्षिकाओं के अन्तर्जनपदीय स्थानान्तरण हेतु निम्नवत बिन्दुओं के आलोक में सम्यक विचारोपरान्त निर्णय लिया गया है:-

- (1) अध्यापक/अध्यापिका के स्वयं / Spouse अथवा उनके अविवाहित पुत्र-पुत्री के दिव्यांग होने की दशा में स्थानान्तरण किया जा सकेगा।
- (2) अध्यापक/अध्यापिका अथवा उनके अविवाहित पुत्र-पुत्री के कैंसर से पीड़ित होने की दशा में स्थानान्तरण किया जा सकेगा।
- (3) अध्यापक/अध्यापिका अथवा उनके अविवाहित पुत्र-पुत्री के Dialysis पर होने दशा में स्थानान्तरण किया जा सकेगा।
- (4) यदि पति/पत्नी दोनों बेसिक शिक्षा परिषदीय विद्यालयों में शिक्षक हैं और उनमें से किसी के द्वारा आवेदन किया जाता है तो जहां पर शिक्षक-छात्र अनुपात न्यून होगा, उस जनपद में उन दोनों में से किसी एक का स्थानान्तरण किया जा सकेगा।
- (5) उपरोक्त के अतिरिक्त किसी विषम परिस्थिति में मा० मुख्यमंत्री जी के अनुमोदन से स्थानान्तरण किया जा सकेगा।”

5. The said Government Order dated 04.06.2026 was further clarified by the Government Order dated 22.06.2026 to the following effect:

“2. यद्यपि उपरोक्त विषयक शासनादेश में स्थानान्तरण हेतु निर्धारित मापदण्ड 05 बिन्दुओं में स्पष्ट रूप से वर्णित हैं फिर भी पुनः यह स्पष्ट किया जा रहा है कि पति और पत्नी यदि दोनों बेसिक शिक्षा परिषद के विद्यालयों में शिक्षक हैं तो पति एवं पत्नी में से जिसके द्वारा स्थानान्तरण हेतु आवेदन प्रपत्र भर कर दिया जायेगा जायेगा, केवल उसी के स्थानान्तरण संबंधी अनुरोध पर विचार किया जायेगा। आवेदन न करने वाले पति/पत्नी का स्थानान्तरण नहीं किया जायेगा।”

6. It is informed by the Counsel for the parties that after the issuance of the Government Order dated 22.06.2026, the date for applying for transfer was extended and continues till 05.08.2026.

7. The Counsel for the petitioners argues that the request of transfer as indicated in the Government Order dated 04.06.2026 and quoted above, particularly Clause 4 of Paragraph 3 prescribed that “*if the husband and wife are teachers in the basic schools and one of them applies for transfer, his/ her case shall be considered where the PTR is lower*”. The PTR, as prepared by the respondents, is also on record wherein district wise PTR has been worked out.

8. It is further contended by the Counsel for the petitioners that in terms of the mandate of RTE Act, the PTR has to be maintained school wise as also enumerated in the Schedule of the RTE Act as well as Rule 21 of the Service Rules and the Rules framed under the said Act, which has been violated by the respondents in issuing the list of PTR district wise. It is further argued that in view of the anomalies created by the respondents in issuing district wise list of PTR, the rights of the petitioner for exercise the option in furtherance of the Government Order dated 04.06.2026 and the Government Order dated 22.06.2026 stand circumscribed and thus the rights of the petitioners are being violated.

9. It is further argued by the Counsel for the petitioners that the issuance of the list of PTR, district wise, is arbitrary and illegal and is liable to be struck down by this Court in exercise of powers under Article 226 of the Constitution of India.

10. The Counsel for the petitioner places reliance on the judgment of the Kerala High Court rendered in the case of ***The Kerala Aided L.P. & U.P. School vs State of Kerala*** [WP(c) No.19008/2013-A], decided on 17.12.2015, wherein, the Kerala High Court had interpreted the scope of RTE Act and the Rules framed thereunder along with the Schedule to hold that it is the duty of the State Government to ensure that the PTR

will maintain school wise and class wise, which is the mandate of the Act.

11. It is further argued by the Counsel for the petitioners that the said judgment was affirmed by the Division Bench vide its judgment dated 30.08.2016 passed in W.A. No.372 of 2016 and was further affirmed by the Hon'ble Supreme Court vide order dated 19.04.2017 passed in SLP (C) No(s).4298-4322 of 2017.

12. In the light of the said, it is argued that PTR referred in the RTE Act has to be maintained school wise and class wise and the respondents are issuing the PTR considering the number of students in particular district and thus they have maintained the PTR district wise, which is contrary to the mandate of the RTE Act.

13. Learned Standing Counsel for the respondents no.1 and 2; Sri Ran Vijay Singh, learned Counsel for the respondents no.3 and 5 and Sri Prashant Kumar Singh, learned Counsel for the respondent no.4 argue that the contention of the Counsel for the petitioner is fallacious for the reason that the mandate of the RTE Act is nothing to do with the decision taken by the State for the transfer of the teachers, which is essentially in the nature of the policy decision. It is further argued that in paragraph 3(4) of the Government Order dated 04.06.2026 itself, it was indicated that where the student teacher ratio in district is less, the applicant-teacher can be transferred there.

14. It is further argued by the Counsel for the respondents that the list issued indicates the PTR on district wise basis, however, the same was done only with a view to ascertain the number of teachers in a particular district. It is further argued that the teacher has no inherent right of transfer except the prescriptions contained in Rule 8(2)(d) of the Posting Act and the Rules 21 of the Service Rules applicable to the teachers. It is further argued that the Government Order dated 04.06.2026 is a policy decision and it is well settled that a policy decision would not be

interfered unless the same is arbitrary and illegal or for any exceptional reasons. It is next argued that no rights of the petitioners were shown to be adversely affected warranting interference under Article 226 of the Constitution of India, thus, the writ petition preferred by the petitioners is liable to be dismissed.

15. It is lastly argued by the Counsel for the respondents that the reliance placed upon the judgment of the Kerala High Court and affirmed in appeal and thereafter by the Hon'ble Supreme Court will have no applicability to the facts of the present case.

16. In the light of the arguments raised and referred above, it is essential to note the mandate of the RTE Act, which was framed in furtherance of Article 21A of the Constitution of India. Article 21A was inserted by the Constitution (Eighty-sixth Amendment) Act, 2002, whereby the State undertook to provide free and compulsory education to all children between the ages of six and fourteen years as a fundamental right. In furtherance of the said constitutional mandate, the RTE Act was enacted in 2009.

17. The object of the Act has been clearly settled by the Hon'ble Supreme Court in ***Society for Unaided Private Schools of Rajasthan v. Union of India, (2012) 6 SCC 1***. The Hon'ble Supreme Court held that the objective of the Act is not merely to ensure access to education for all children, but also to secure quality education and such quality education can be achieved only by maintaining the prescribed pupil-teacher ratio in accordance with the Schedule to the RTE Act.

18. Chapter II of the RTE Act is in the form of an undertaking to provide free and compulsory education to all the children in between the age of 6 to 14 years. Chapter III provides for duties of the appropriate Government. Chapter IV provides responsibilities of schools and teachers. Chapter V provides curriculum and completion of elementary

education and Chapter VI further provides for protection of rights of children.

19. Interestingly in the entire RTE Act, no rights flow in favour of the teachers and in fact, the duties of the teachers have been specified except to the effect that their service condition could not be detrimental to mandate of Section 23 of the Service Rules.

20. The decision with regard to transfer is neither emanating from the Rules, 2001 and the Service Rules, 1981. It is essentially a policy decision taken by the State for enabling the transfer of the categories specified in the Government Order. In the case of the petitioners, the category is the transfer of the spouses where the spouses are working with the respondent in different districts.

21. There being no inherent rights flowing in favour of the petitioners by virtue of any statutory enactment, the rights flowing in favour of the petitioners only in terms of the policy decision taken on 04.06.2026, for seeking transfer in a district, where the spouse is living. In fact the Government Order dated 04.06.2026 itself prescribes that the transfer shall be effected in the district, where the PTR is less on a district wise basis. The list appended showing the PTR in various districts in any way has no concerned with the Schedule of the RTE Act or the mandate of the RTE Act. The same is only for the purpose of convenience of the State to determine as to which district either of the spouse can seek transfer and based upon the numbers of the teachers in the particular district, the transfer shall either be accepted or rejected.

22. The contention of the Counsel for the petitioners based upon the RTE Act merit rejection as the aim of the list prepared for the purpose of transfer has nothing to do with the mandate of the RTE Act.

23. As regards the argument of the petitioners that their rights would be adversely effected as they were not knowing as how many teachers

are there in a particular district so as to enable the teachers to make an informed decision. The same again merits rejection as the transfers has to be effected on district wise basis and not on school wise basis even in the request of the teachers are accepted, they would not be entitled for considered for appointment in a particular school and they would only be entitled for being considered for a particular district. Thus, apparently in terms of the policy decision, no rights of the petitioners are adversely effected. There is no error in the policy of the State Government warranting interference. The ground of linking of the claim of the petitioners with the Schedule under RTE Act, is misplaced and cannot be accepted.

24. For all the reasons stated above, the writ petition deserves to be dismissed and is accordingly *dismissed*.

25. It is further clarified that this Court has not enrolled the list of PTR for the purpose of the requirement enumerated in the RTE Act.

(Pankaj Bhatia,J.)

July 31, 2026

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