

Monika Vs. State of HP and others

CMP No. 1792 of 2026 in CWP No. 1325 of 2026

Reserved on: 20.1.2026

23.1.2026 Present: M/s Aakash Thakur and Varun Thakur, Advocates, for the petitioner.

Mr Diwakar Dev Sharma, Additional Advocate General, for the respondents/State.

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As per the petitioner, she joined the services of the respondent department as a Forest Range Officer in Forest Range, Ladbharol under Forest Division, Jogindernagar on 6.8.2024. She received information about the unlawful construction of the road by means of a complaint dated 7.3.2025, and she promptly responded. She received a written report in July, 2025 regarding the construction of 20 meters of road, and she issued a damage report. The petitioner received a transfer order (Annexure P-1) which was issued at the instance of local political functionaries with the *mala fide* intention. Hence, an interim direction has been sought for staying the operation of the transfer orders.

2. I have heard M/s Aakash Thakur and Varun Thakur, learned counsel for the petitioner and Mr Diwakar Dev Sharma, learned Additional Advocate General, for the respondent-State.

3. Mr Aakash Thakur, learned counsel for the petitioner, submitted that the petitioner was transferred with a *mala fide* intention to harass her because of the action taken by her to stop the construction of the road. The transfer order does not mention that the transfer is in the public interest. The petitioner was not permitted to complete her normal tenure. Therefore, he prayed that the operation of the transfer order be stayed.

4. Mr Diwakar Dev Sharma, learned Additional Advocate General, for the respondents/State, submitted that the transfer is an exigency of service, and there is no infirmity in the order. Hence, he prayed that the present petition be dismissed.

5. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

6. The Hon'ble Supreme Court dealt with the scope of judicial review of transfer in *Pubi Lombi v. State of Arunachal Pradesh*, (2024) 12 SCC 292, and held as under:

“15. In view of the foregoing enunciation of law by judicial decisions of this Court, it is clear that in the absence of:

- (i) pleadings regarding mala fides,
- (ii) non-joining the person against whom allegations are made,
- (iii) violation of any statutory provision,

(iv) The allegation of the transfer being detrimental to the employee who is holding a transferable post, judicial interference is not warranted.

In the sequel of the said settled norms, the scope of judicial review is not permissible by the courts in exercising the jurisdiction under Article 226 of the Constitution of India.”

7. It was laid down by the Hon’ble Supreme Court in *Mohd. Masood Ahmad v. State of U.P.*, (2007) 8 SCC 150: (2007) 2 SCC (L&S) 806, that even if the transfer was made on the recommendation of an MLA, it will not vitiate the transfer because it is the duty of the representative of the people to express the grievance of the people. It was observed:

8. ... In our opinion, even if the allegation of the appellant is correct that he was transferred on the recommendation of an MLA, that by itself would not vitiate the transfer order. After all, it is the duty of the representatives of the people in the legislature to express the grievances of the people, and if there is any complaint against an official, the State Government is certainly within its jurisdiction to transfer such an employee.”

8. A similar view was taken in *Pubi Lombi* (supra), wherein it was observed at page 298:

“19. In view of the stand taken by the Government and in absence of plea of mala fide and no averment regarding violation of statutory provision taken by the private respondent before the High Court, interference as made by the Division Bench [*Nyamo Rina v. State of Arunachal Pradesh*, 2023 SCC OnLine Gau 3529] setting aside the well-reasoned judgment [*Nyamo Rina v. State of Arunachal Pradesh*, 2023 SCC OnLine Gau 5182] of the Single Judge is not justified merely on the unsubstantiated

pretext that the proposed modification is arbitrary or without application of mind for the sole reason that it was mooted by the MLA. In our view, the Division Bench has committed an error in setting aside the judgment of the learned Single Judge.”

9. Therefore, the order is not bad even if it is passed at the instance of the local politician.

10. It was submitted that the transfer order is mala fide, having been passed because of the action taken by the petitioner. However, the petitioner has not impleaded the person passing the transfer order against whom he has alleged *mala fide*, as required in *Ratna Giri Gas and Power Pvt. Ltd. Vs. RDS Projects 2013 (1) SCC 524*. Therefore, the plea of mala fide cannot be adjudicated in the absence of the necessary parties.

10. Thus, *prima facie*, no case is made out for the grant of any stay order.

11. Reply, on behalf of the non-applicants/respondents, if any, be filed within three weeks, and the matter be listed along with the main matter.

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12. List the matter before the appropriate Bench having a roster after the winter vacation.

(Rakesh Kainthla)
Vacation Judge

23rd January, 2026
(Chander S. Sharma)