



2026:UHC:2932-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA

AND

THE HON'BLE JUSTICE SHRI SUBHASH UPADHYAY

22nd April, 2026

Special Appeal No. 102 of 2026

Bajaj Auto Limited and another -----Appellants

Versus

Sanjay Singh Rayal and others -----Respondents

Presence:-

Mr. D.S.Patni, learned Senior Counsel assisted by Mr. Piyush Garg, learned counsel for the appellants.

Mr. Yogesh Pacholia and Mr. Sagar Malara, learned counsel for the respondents no. 1 to 6.

Mr. Yogesh Chandra Tiwari, learned Standing Counsel for the State/respondents no. 7 to 9.

JUDGMENT: (per Manoj Kumar Gupta, C.J.)

1. The instant *intra court* appeal is directed against the order of learned Single Judge dated 08.04.2026, in Writ Petition (M/S) No. 823 of 2026, Sanjay Singh Rayal and others vs. State of Uttarakhand and others. The said writ petition was filed by the respondents-workmen (non appellant no. 1 to 6) for the following reliefs:

"i. Issue a writ, Rule, Order or direction in the nature of certiorari to quash the impugned Transfer Orders dated 19.02.2026 (Annexure No. 6), whereby the respondent n. 5 had transferred the services of petitioners from its plant situated at



SIDCUL, Pantnagar to its another plant situated at Waluz, Aurangabad, Maharashtra, along with its effect and operation, during pendency of IR proceedings before Assistant Labour Commissioner, Rudrapur, U.S.Nagar (page no. 57)

ii. Issue a Writ, Rule, Order or Direction in the nature of Mandamus, commanding and directing, the respondent authorities to declare the impugned transfer order of petitioners void and illegal and further be pleased to restore the services of petitioners on the same post and department, treating him continuous in service along with all service benefits including salary.

iii. Issue a Writ, Rule, Order or Direction in the nature of Mandamus, commanding and directing the respondent no. 1, 2 & 3 to issue appropriate direction to respondent management to not to give effect to the impugned transfer order during the pendency of conciliation proceedings or cancel the impugned transfer order, as the same is in violation of U.P. Industrial Dispute Act as well as the certified model standing orders of industrial unit of respondent no. 4 & 5.

(iv) Issue a Writ, Rule, Order or Direction in the nature of Mandamus, commanding and directing the respondent authorities of Labour Department, to make sure that the petitioner shall not be subjected to any act of unfair labour practice and take appropriate steps against the respondent no. 4 & 5 to safeguard the interest of petitioner.

(v) Issue a Writ, Rule, Order or Direction in the nature of Mandamus, commanding and directing the respondent no. 4 & 5 to pay exemplary



compensation and damages to petitioner to the tune of such amount, which this Hon'ble Court deem fit and appropriate under the circumstances."

2. The respondents-workmen are employees of the appellant-company and were posted at its plant SIDCUL, Pant Nagar. They were transferred to plant Waluz, Aurangabad, Maharashtra. Challenging the same, the writ petition was filed.

3. The learned Single Judge has entertained the writ petition and while inviting counter affidavit, the effect and operation of the transfer order dated 19.02.2026 has been stayed. One of the contention of the appellant before the learned Single Judge was that the order of transfer of the workmen cannot be subjected to challenge in writ jurisdiction as the appellant-company is a private entity and not State within the meaning of Article 12 of the Constitution nor was performing any public duty nor had failed to discharge any statutory duty. In support of the submission that the writ petition against the transfer order was not maintainable, reliance was placed on Division Bench Judgment of this Court in Special Appeal No. 29 of 2026, "Belrise Industries Limited vs. Badve Engineering Workers Union and others", decided on



12.2.2026 and the Apex Court judgment in "***Cipla Ltd. vs. Jayakumar R. and another, (1999) 1 SCC 300***".

However, the learned Single Judge has not considered the question of maintainability, but has granted interim order, making the following observations:

"13. Having heard learned counsel for the parties and having gone through the case law relied upon by learned senior counsel for respondent Nos.4 and 5, this Court is of the opinion that the transfer order appears to be highhandedness on the part of 4 respondent Nos.4 and 5 and its nothing but a kind of harassment to the petitioners. Therefore, Court cannot shut its eyes to injustice done to the petitioners at the hands of respondent Nos.4 and 5. The Court's hands are not too tied to protect the fundamental rights of the petitioners and to deal with highhandedness and arbitrariness meted out to the petitioners in writ jurisdiction under Article 226 of the Constitution of India."

4. Learned counsel for the appellants submits that under the appointment letter, there was specific condition that the workmen could be transferred from one Division /Department /Section /Branch /Plant / Associate Company to another in India. He further submits that under Clause 14 of the certified Standing Orders, also, the workmen could be transferred from one station to another or from one establishment to another under the same employer. It is submitted that the production at Waluz, Aurangabad, Maharashtra unit



was on the rise, therefore more workforce was required at the said Unit. In the alternative, it is submitted that even if there was any violation of Standing Order, the remedy is to approach the authorities/tribunal under the Labour Laws and any other alleged infraction thereof cannot be enforced through writ jurisdiction.

5. *Per contra*, learned counsel for the workmen submits that as soon as the transfer order was passed, the workmen approached the authorities and now conciliation proceedings are pending. He submits that the last date fixed before the Conciliation Officer was 20th April, and now the next date fixed is 5th May, 2026. It is urged that the Conciliation Officer should have concluded the proceedings or should have made reference but since the conciliation proceedings are still pending, therefore, the workmen are not left with any remedy and therefore, they approached the writ court. He submits that apart from challenging the transfer order, the workmen have also sought other directions against the authorities and he prays that a direction be issued to the Conciliation Officer to conclude the conciliation proceedings within a fixed time frame.

6. It is not disputed before us that in the appointment orders, there was specific clause enabling



the company to transfer the respondents-workmen from one Division/ Department/ Section/Branch/ Plant/ Associate Company to another in India. Moreover, under Clause 14 also, the employer has power to transfer the workmen from one station to another. The Supreme Court in ***Cipla Ltd. vs. Jayakumar R. and Another, (1999) 1 SCC 300*** has held that when the Standing Order does not prohibit the transfer of workmen from one establishment to another, it is open to the employer to transfer the workmen. Moreover, even if there was violation of any Standing Order, the same could be subject matter of consideration by the Authorities as per the provisions of Labour Laws and in such situation, in our considered opinion, the writ petition under Article 226 of the Constitution is not maintainable, particularly, against the present appellant, which is not State within the meaning of Article 12 nor the action taken was in discharge of any public duty or function or could be said to be in-violation of any statutory provision.

7. Since transfer was a condition of service, therefore, the observation made by learned Single Judge that the transfer order has resulted in violation of fundamental rights of the petitioner cannot be



accepted.

8. In view of the above discussions, we are of the considered opinion that the learned Single Judge erred in entertaining the writ petition against the transfer order and in granting of interim relief even without deciding the question of maintainability of the writ petition.

9. As counsel for the respondents-workmen submits that the writ petition may be disposed of with direction to the Conciliation Officer to conclude the conciliation proceedings on the next date, to which, learned counsel for the appellant has no objection, therefore, the present appeal and writ petition are disposed of as follows:

(i) The order of learned Single Judge dated 08.04.2026 is hereby set aside. The writ petition against transfer order is held to be not maintainable. Accordingly, the writ petition for the said relief shall also stand dismissed.

(ii) In respect of other reliefs, since counsel for the respondents-workmen has confined his prayer only for issuance of direction to the Conciliation Officer to conclude the proceedings expeditiously, therefore, in



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respect of the said prayer, it is hereby provided that the Conciliation Officer shall made every endeavour to conclude the proceedings on the next date, which is stated to be 5th May, 2026. In case, the proceedings could not conclude on the said date, then positively within a week thereafter.

10. Pending application, if any, also stands disposed of.

11. Let a copy of the instant order be kept on the record of the writ petition.

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 22.04.2026
Kaushal