



2026:AHC:34786

A.F.R.
Reserved on:- 20.01.2026
Delivered on:- 17.02.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 179 of 2026

Arun Pratap Singh and 37 others

.....Petitioner(s)

Versus

State of U.P. and 4 others

.....Respondent(s)

Counsel for Petitioner(s)	: Siddharth Khare, Sr. Advocate
Counsel for Respondent(s)	: C.S.C., Umesh Chandra Kesarwani

Along with:

(i) Writ - A No. 787 of 2026 (Sangeeta Singh Patel and 42 Others Vs. State Of U.P. And 4 Others)

(ii) Writ - A No. 568 of 2026 (Abhishek Kumar Tripathi And 11 Others vs. State Of U.P. And 4 Others)

(iii) Writ - A No. 707 of 2026 (Swadesh Kumar And 57 Others vs. State Of Uttar Pradesh And 4 Others)

(iv) Writ - A No. - 564 of 2026 (Aman Raj And 5 Others vs. State Of U.P. And 5 Others)

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Written submissions provided by learned counsel for the parties are taken on record.
2. As a common cause of action has been agitated in all the writ petitions, the same are being decided by a common judgment.
3. A composite counter affidavit has been filed in Writ-A No. 179 of 2026, addressing legal issues rather than factual ones. Learned counsel for the petitioners does not propose to file a rejoinder affidavit to the same, as the petitions are being decided solely on the legal issues.

4. Heard Mr. Ashok Khare, learned Senior Advocate assisted by Mr. Siddharth Khare, Mr. Mohd. Yaseen and Mr. Navin Kumar Sharma, Mr. Nipun Singh, learned Senior Advocate assisted by Mr. Shashank Shekhar Mishra, Mr. Tarun Agrawal, learned Senior Advocate assisted by Mr. Prashant Mishra, learned counsels for the petitioners in the present case as well as connected petitions, Mr. Abhishek Srivastava, learned Chief Standing Counsel-VII assisted by Mr. Rishi Kumar, learned Additional Chief Standing Counsel, Mr. Shailendra Singh, learned Standing Counsel, Mr. R. P. Srivastava, learned Standing Counsel for the State and Mr. Ashish Kumar Nagvanshi, learned counsel for the respondent and perused the records.

5. The aforesaid writ petitions have been filed challenging the Government Order dated 14.11.2025, as well as the subsequent orders issued pursuant thereto.

6. The petitioners are working either as Assistant Teachers or Headmasters in all the writ petitions. Since the petitions are being decided on legal issues, the details of the petitioners in this batch of petitions are not being mentioned, except for the fact that the petitioners are either Assistant Teachers in Junior Basic Schools or Senior Basic Schools, or Headmasters in Junior Basic Schools and Senior Basic Schools.

7. The Government Order dated 14.11.2025 and the proceedings consequent thereto purport to be for the redeployment of teachers in order to maintain the pupil-teacher ratio, in accordance with the provisions of The Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the '2009 Act').

8. In Writ-A Nos. 179 of 2026, 568 of 2026, and 787 of 2026, learned counsel for the petitioners submits that Section 19 of the 2009 Act specifies the norms and standards for a school as mentioned in the Schedule to the said Act.

9. A perusal of the Schedule demonstrates that there is a minimum requirement of two teachers in every institution, with additional teachers

based on the student strength as specified in the Schedule. In the case of a Junior Basic School having more than 150 students, there is a requirement for one Headmaster, and for a Senior Basic School with a student strength of more than 100, there is a requirement for one Headmaster.

10. Learned counsel for the petitioners submits that Section 38 of the 2009 Act confers power upon the appropriate Government to frame rules for carrying out the provisions of the Act. In exercise of such powers, the Government of Uttar Pradesh has framed the Uttar Pradesh Right of Children to Free and Compulsory Education Rules, 2011 (hereinafter referred to as the 'Rules of 2011'). To effectuate the norms and standards specified under the 2009 Act, there is a requirement for provisions to be made for the redeployment to be conducted every year in the month of July. Rule 21(2) of the Rules of 2011 is extracted below:-

“(21) Maintaining of Pupil-Teacher Ratio in each school (section-25)-

(1) The sanctioned strength of teachers in every school shall be notified by the District Magistrate of the respective district. Such notification shall be displayed on the district website; the sanctioned strength of teachers in a school shall be informed to the respective school and local authority:

Provided that the District Magistrate, shall, within two months of such notification, redeploy teachers of schools having strength in excess of the sanctioned strength prior to the notification referred to in sub-rule (1).

(2) In order to maintain the specified pupil-teacher ratio, the District Magistrate shall review the sanctioned strength of teacher in every school every year before the month of July and redeploy the teachers as per requirement.

(3) For the purpose of maintaining the pupil-teacher ratio, no teacher posted in a school shall be made to serve in any other school or office or deployed for any noneducational purpose, other than the decennial population census, disaster relief duties or duties relating to elections to the local authority or the State Legislatures or Parliament.

(4) If any teacher found to be engaged in private tuition or private teaching, disciplinary action will be taken under the service rules applicable to him or her.”

11. The aforesaid Rule does not envisage a repeated exercise of the powers of redeployment under Rule 21(2) for maintaining the specified pupil-teacher ratio. The District Magistrate is required to review the

sanctioned strength of teachers in every school each year before the month of July and redeploy the teachers as per the requirement.

12. For the purpose of such annual redeployment, the exercise was conducted pursuant to the Government Order dated 23.05.2025, followed by the orders of the concerned Basic Shiksha Adhikari dated 01.07.2025. Thus, the exercise was carried out as required under Rule 21 of the Rules of 2011 for maintaining the pupil-teacher ratio in each school.

13. Learned counsel for the petitioners submits that a few teachers have already joined at their transferred places pursuant to the order dated 01.07.2025. Similar exercise should also be completed in all other districts of the State, including Chitrakoot.

14. Surprisingly, a fresh exercise has been initiated by the Government Order dated 14.11.2025, under the pretext of implementing the provisions of the 2009 Act and the Rules of 2011 framed thereunder.

15. Learned counsel for the petitioners submits that the two Government Orders, i.e. G.O. dated 23.05.2025 and 14.11.2025, are contrasting. The Government Order dated 23.05.2025 contained detailed guidelines requiring full details to be uploaded on the option website, thereafter, it called for the options from all surplus teachers willing to opt for institutions found to be deficient, and on the basis of such information, the final orders were to be passed. In contrast, the present Government Order dated 14.11.2025 is in a skeletal form, not specifying any procedure as set out in the earlier Government Order. However, it indicates that the redeployment exercise was intended to be undertaken for the academic session 2025-26.

16. Learned counsel for the petitioners further submits that the Government Order dated 14.11.2025 has been construed in contrast to the Government Order dated 23.05.2025. The procedure specified under the Government Order dated 23.05.2025 necessarily involved the publication of a list of surplus institutions, a list of surplus teachers, a seniority list of teachers treated as surplus, and a list of deficient

institutions. It also provided that surplus teachers would have the option to choose an institution of their preference from the list of deficient institutions. Such options were to be exercised by the surplus teachers, and the same were to be scrutinized accordingly. However, no such procedure has been specified in the Government Order dated 14.11.2025, which renders it unreasonable and arbitrary.

17. On account of the non-specification of any norms in the Government Order dated 14.11.2025, each district has, therefore, adopted its own procedure or norms for identifying surplus teachers. The computation of surplus teachers may be based either on the persons who have put in the longest length of stay in a given institution or on those who have most recently joined. There is no clarity regarding the procedure followed by each district.

18. Learned counsel for the petitioners further submits that no proceedings were undertaken in any of the districts for nearly one and a half months following the issuance of the Government Order dated 14.11.2025, and the impugned orders have been passed in each district on different dates. There is no justification for such complete inaction on the part of the respondents during the aforesaid period.

19. Learned counsel for the petitioners further submits that Section 25 of the 2009 Act specifies the provisions for maintaining the pupil-teacher ratio. It requires the appropriate Government and local authorities to ensure that the pupil-teacher ratio, as specified in the Schedule, is maintained in each school within three years from the date of commencement of the Act.

20. For the purpose of maintaining the pupil-teacher ratio, no teacher posted in schools shall be transferred to any other school or deployed for any purpose other than those specified in Section 27 of the 2009 Act.

21. Learned counsel for the petitioners further submits that there was no justification for issuing the fresh Government Order dated 14.11.2025 and the consequential orders, when, pursuant to the earlier Government Order dated 23.05.2025, the entire exercise for the session 2025-26 had

already been concluded, following the joining of Assistant Teachers and Headmasters, as the case may be, on 01.07.2025 in all the districts.

22. He further submits that there existed no justification for conducting any such redeployment exercise in the middle of the academic session, as the students' strength, which existed at the commencement of the academic session, had substantially remained the same in December 2025. Therefore, there existed no justification for issuing of the Government Order dated 14.11.2025 and the consequential orders. It is a settled principle of law that actions must be taken in accordance with the prescribed procedure, and any deviation therefrom vitiates the action itself.

23. Learned counsel for the petitioners further submits that the Government Order dated 14.11.2025, which was skeletal in nature and did not specify the details of the procedure to be followed, created a chaotic situation in each district, as each district followed its own procedure.

24. Another aspect of the controversy is that a large number of Headmasters have been treated as surplus in Junior Basic Schools and Senior Basic Schools where the students' strength is less than 150 and 100, respectively. However, such reasoning is illogical and contrary to departmental circulars as well as the orders previously passed by this Court. Learned counsel for the petitioners has drawn the attention of the Court to the order dated 04.09.2024 passed by the Lucknow Bench of this Court in Writ-A No. 7241 of 2024 (Seema Jaiswal and others vs. State of U.P. and others).

25. Learned counsel for the petitioners further submits that these are individual grievances of the petitioners, which have not been addressed, as no notice or opportunity of hearing was provided and no option was made available, as required, prior to the passing of the impugned orders and the consequential orders.

26. As no detailed counter affidavit has been filed in response to the individual grievances mentioned in the bunch of petitions, the same have

not been addressed before this Court. However, an opportunity of hearing is required to be afforded to the petitioners to present their individual grievances, which affect them in any manner, rendering the impugned orders unreasonable and arbitrary.

27. Learned counsel for the petitioners in Writ-A No. 564 of 2026 has challenged the illegality and validity of the impugned posting order dated 13.12.2025. The impugned exercise constitutes the third round of adjustment undertaken by the respondents during the same academic session. The earlier two rounds have already resulted in a spate of writ petitions; therefore, the present case should be examined in the backdrop of this continuing administrative history.

28. The passing of the impugned order demonstrates a systemic administrative failure in implementing the statutory norms governing the deployment of teachers, which has persisted despite repeated judicial intervention.

29. The petitioners, who are duly appointed as Assistant Teachers working in Primary and Upper Primary Schools, belong to a district-level cadre, and their service conditions are governed by the U.P. Education (Teachers) Service Rules, 1981, read with the U.P. Basic Education (Teachers) (Posting) Rules, 2008.

30. It is a settled principle of service jurisprudence that, once service conditions are governed by statutory rules framed under Article 309 of the Constitution of India, the same cannot be altered, supplanted, or overridden by executive instructions or administrative convenience. This means that any transfer or adjustment dehors the statutory framework is liable to be interdicted.

31. The controversy arose when the Government Order dated 23.05.2025 was issued, whereby the State-respondents initiated a policy for the rationalization of teachers to ensure compliance with Section 25 of the 2009 Act. The policy was followed by guidelines dated 13.06.2025 and 16.06.2025, and a list of surplus and deficit schools was published on 24.06.2025.

32. While undertaking the aforesaid exercise, the respondents failed to adhere to the statutory mechanism prescribed under Section 25 of the 2009 Act read with Rule 21 of the Rules of 2011. The said rule mandates that the District Magistrate shall annually determine the sanctioned strength of teachers in each school, having regard to the pupil-teacher ratio prescribed in the Schedule to the Act. Thus, the entire exercise was in violation of the statutory requirement and is therefore bad in law.

33. The first round of transfer orders culminated in the list dated 30.06.2025, which was prepared without regard to the statutory norms, resulting in several schools being rendered as solitary-teacher schools. This was in direct violation of Section 25 of the 2009 Act, which mandates the maintenance of minimum teacher strength, and also defeated the very object sought to be achieved by the policy.

34. Aggrieved by the aforesaid actions, two distinct sets of teachers approached this Court: (i) teachers whose schools were rendered solitary as a result of the impugned adjustments; and (ii) teachers who were transferred pursuant to the said list and were subsequently sought to be reverted.

35. A batch of writ petitions, including Writ-A No. 16303 of 2025, is pending adjudication. The present Government Order dated 14.11.2025 has given rise to the third round of litigation.

36. By the aforesaid Government Order, the State Government directed a fresh exercise based on U-DISE+ data through a District-Level Committee. While the said Government Order sought to correct earlier mistakes, it conspicuously failed to prescribe any policy or guideline for the identification of surplus teachers within a school. Thus, the absence of such a policy is not a mere procedural irregularity but constitutes substantive illegality, as it confers unguided discretion upon subordinate authorities.

37. Pursuant to the letter dated 19.11.2025 issued by the concerned respondents, they proceeded to determine surplus schools in the District, which was illegal as no proper procedure was followed.

38. In the aforesaid procedure, the Shiksha Mitras and contractual instructors were included as regular teachers while determining surplus schools in the districts. As already submitted, there was no criteria for the selection of surplus teachers; consequently, each district followed its own procedure, which created a chaotic situation.

39. Learned counsel for the petitioners further submits that, in the absence of any guidelines to be followed for the implementation of the 2009 Act to maintain the student-teacher ratio, the earlier principle of treating the junior-most teacher as surplus, i.e., 'Last Come, First Go,' was also not to be followed, as it has been held to have no statutory backing. The aforesaid has been held in the case of **Smt. Reena Singh and others vs. State of U.P. and others, reported in 2019 (1) ADJ 319 (LB).**"

40. The said position has been reiterated in the case of **Pushkar Singh Chandel and others vs. State of U.P. and others, reported in 2024 (12) ADJ 375 (LB)**, wherein this Court held that the inclusion of Shiksha Mitras for determining surplus strength of the teachers and the mechanical displacement of junior teachers is constitutionally impermissible. Thus, the impugned posting order dated 31.12.2025 is directly in the teeth of the aforesaid binding precedents.

41. The issuance of the Government Order dated 14.11.2025, instead of rectifying the errors committed in the earlier rounds, has created a more precarious situation, which cannot be addressed without inviting objections from the petitioners. Such selective action amounts to hostile discrimination and is violative of Article 14 of the Constitution of India. Being in contravention of statutory provisions, binding judicial precedents, and constitutional guarantees, it cannot be sustained in law and warrants interference by this Court.

42. Learned counsel for the petitioners in Writ-A No.707 of 2026 submits that the petitioners are Assistant Teachers serving in Primary, Upper Primary and Composite Schools and have challenged the

Government Order dated 14.11.2025 as well as transfer order dated 31.12.2025 with the following grounds:-

(a) Transfers effected without counseling, without inviting options or preferences and without publication of any consolidated list of surplus or transferred teachers. Settled policy of transfers based on seniority abandoned.

(b) New criterion of length of stay introduced and applied mechanically.

(c) Teachers appointed in English Medium Schools after undergoing a rigorous selection process displaced solely on the basis of length of stay.

(d) Senior teachers transferred to far-off locations despite availability of nearby schools.

(e) Objections invited only after transfer orders had already been finalized and uploaded, rendering the opportunity illusory.

(f) Thus the impugned exercise suffers from complete non-application of mind and is *ex-facie* arbitrary.

(g) The transfers are in violation of 2009 Act as well as Rules of 2011 as mandatory pupil-teacher ratio and subject-teacher ratios have been disturbed.

(h) Mechanical reliance on length of stay as the sole criterion in irrational and contrary to statutory staffing requirements.

(i) Displacement of trained English Medium teachers defeats the very object of establishing English Medium Schools and adversely affects educational standards.

(j) Entire process lacks transparency, with no public disclosure of criteria or consolidated date, violating principles of fairness and equality under Article 14 of the Constitution of India.

(k) Post-decisional invitation of objections does not cure the illegality and amounts to a mere formality.

43. On the cumulative strength of the aforesaid submissions, learned counsel for the petitioners submits that the impugned government order

dated 14.11.2025 as well as consequential transfer order dated 31.12.2025 are liable to be quashed.

44. On the other hand, Mr. Abhishek Srivastava, learned Chief Standing Counsel VIIth assisted by Mr. Ashish Kumar Nagwanshi, learned Additional Chief Standing Counsel for the State-respondents submits that the 2009 Act itself provides that the said Act has been enacted by the Parliament to provide for free and compulsory education to all children of the age of 6 to 14 years.

45. Article 21A of the Constitution of India guarantees the fundamental right to free and compulsory education for all children aged 6 to 14 years, and this right is further reinforced by the 2009 Act. Specifically, Section 25 of the Act places an obligation on the State to ensure an adequate Pupil-Teacher Ratio (PTR), thus mandating that the government not only to provide access to education but also guarantees the quality of education by ensuring sufficient and trained teachers. As such, the State is constitutionally and statutorily bound to fulfill its duty by addressing teacher shortages, maintaining infrastructure, and ensuring that every child receives an education of adequate quality, with the judiciary playing a key role in enforcing these rights when the state fails to do so.

46. It would be appropriate to refer to Sections 3 and 8 of the 2009 Act, which provides as follows:-

“3. Right of child to free and compulsory education.— [(1) Every child of the age of six to fourteen years, including a child referred to in clause (d) or clause (e) of section 2, shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education.]

(2) For the purpose of sub-section (1), no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education.

[(3) A child with disability referred to in sub-clause (A) of clause (ee) of section 2 shall, without prejudice to the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), and a child referred to in sub-clauses (B) and (C) of clause (ee) of section 2,

have the same rights to pursue free and compulsory elementary education which children with disabilities have under the provisions of Chapter V of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995:

Provided that a child with “multiple disabilities” referred to in clause (h) and a child with “severe disability” referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999) may also have the right to opt for home-based education.]

8. Duties of appropriate Government.—The appropriate Government shall—

(a) provide free and compulsory elementary education to every child:

Provided that where a child is admitted by his or her parents or guardian, as the case may be, in a school other than a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government or a local authority, such child or his or her parents or guardian, as the case may be, shall not be entitled to make a claim for reimbursement of expenditure incurred on elementary education of the child in such other school.

Explanation.—The term “compulsory education” means obligation of the appropriate Government to—

(i) provide free elementary education to every child of the age of six to fourteen years; and

(ii) ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to fourteen years;

(b) ensure availability of a neighbourhood school as specified in section 6;

(c) ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds;

(d) provide infrastructure including school building, teaching staff and learning equipment;

(e) provide special training facility specified in section 4;

(f) ensure and monitor admission, attendance and completion of elementary education by every child;

(g) ensure good quality elementary education conforming to the standards and norms specified in the Schedule;

(h) ensure timely prescribing of curriculum and courses of study for elementary education; and

(i) provide training facility for teachers.

47. It would also be appropriate to refer to Sections 25 of the 2009 Act, which provides as follows:-

“25. Pupil-Teacher Ratio.--(1) [Within three years] from the date of commencement of this Act, the appropriate Government and the local authority shall ensure that the Pupil-Teacher Ratio, as specified in the Schedule, is maintained in each school.

(2) For the purpose of maintaining the Pupil-Teacher Ratio under sub-section (1), no teacher posted in a school shall be made to serve in any other school or office or deployed for any non-educational purpose, other than those specified in section 27.”

48. Under Section 3 of the Right to Education Act, 2009, every child between the ages of 6 to 14 years has the right to free and compulsory education. This right ensures that all children in this age group are entitled to access quality elementary education. The Pupil-Teacher Ratio has been specified in the Schedule, which has been annexed at Page 43 of the writ petition.

49. Any rule, regulation, or government order that obstructs or hampers the implementation of the Right to Education Act, 2009, or the constitutional mandate under Article 21A of the Constitution of India, shall not be given effect to by the State Government, as laid down by the Hon'ble Supreme Court in **Civil Appeal Nos. 4347-4375 of 2014 (State of U.P. and others vs. Shiv Kumar Pathak and others)**. Paragraph 16 of the aforesaid judgment reads as under:-

“16. There is no manner of doubt that the NCTE, acting as an ‘academic authority’ under Section 23 of the RTE Act, under the Notification dated 31st March, 2010 issued by the Central Government as well as under Sections 12 and 12A of the NCTE Act, was competent to issue Notifications dated 23 rd August, 2010 and 11th February, 2011. The State Government was under obligation to act as per the said notifications and not to give effect to any contrary rule. However, since NCTE itself has taken the stand that notification dated 11 th February, 2011 with regard to the weightage to be given to the marks obtained in TET is not mandatory which is also a possible interpretation, the view of the High Court in quashing the 15 th Amendment to the 1981 Rules has to be interfered with. Accordingly, while we uphold the view that qualifications prescribed by the NCTE are binding, requirement of weightage to TET marks is not a mandatory requirement.”

50. Therefore, any claim of the teachers which comes in the way of maintaining pupil teacher ratio of at least two teachers in every school would be hit by Section 25 of the RTE Act, 2009.

51. He further submits that if the State Government in order to maintain pupil teacher ratio in terms of Section 25 of the RTE Act of 2009 had issued a Government Order dated 14.11.2025 whereby in School where either there is no Teacher or a single Teacher then in that case, the only option which is left with the District Level Committee is to transfer/adjust the (surplus or higher in numbers) Teachers available in one Institution/School to a School where either there is no Teacher or there is only one Teacher as in case the only teacher suffers from any ailment and unable to attend the School then the students should not suffer due to unavailability of teachers.

52. He further submits that the State Government vide Government Order dated 14.11.2025 has given power to a District Level Committee to examine time to time the necessity of a school and to provide teachers in a school where there is no teacher or there is only one teacher as there may be a situation throughout the year that some of the Teachers may retire, promoted, go on leave, suspended due to any misconduct etc., therefore, to deal with all such situations, the District Level Committee would be the competent authority to deal with the said situation and in order to achieve the goal of pupil teacher ratio, they may transfer a teacher from a school that has surplus teachers to a school where there is either no teacher or only one teacher, therefore, such transfer would be based on an administrative decision and the same being exigency of service, it is not proper to challenge any such decision of District Level Committee unless the Hon'ble Court finds that the order is based on a *mala fide* and since all these transfer orders are issued by the District Level Committee for maintaining pupil teacher ratio in schools in terms of Section 25 of the RTE Act, 2009 then any Rule, Regulation, Government Order or circular which would come in the way of said transfer orders shall be hit by Section 25 of the RTE Act, 2009 and the fundamental right of children as enshrined under Article 21A of the Constitution of India.

53. He further submits that if under said transfer/adjustment, a Teacher is posted within the same District then in that case they cannot claim that

they have got an indefeasible right to continue in one School because the purpose of appointment of Teachers in Primary and Upper Primary Schools is to maintain pupil teacher ratio for achieving the aim and object of the RTE Act, 2009 i.e. to provide free and compulsory education to all children of the age of 6 to 14 years.

54. He further submits that the State Government in the Government Order dated 14.11.2025 has put no conditions upon the District Level Committee regarding teacher who will be transferred because there may be a circumstance where Science and Mathematics Teacher may be senior in Upper Primary School but there are two teacher for teaching Languages and are junior to the Science Teacher in that case the District Level Committee will obviously transfer Teacher teaching Languages, therefore, there cannot be a universal formula to deal with those situations and as per administrative grounds/needs of the children, the District Level Committee is the best authority to determine/examine these issues before making transfers and therefore, the State Government in its wisdom has given a discretion to the District Level Committee to examine the ground situations and pass appropriate orders.

55. So far as any ground of resistance by the Teachers taking plea of mid-session is concerned, it is most respectfully submitted that if a pupil teacher ratio is not maintained in a school where there is no teacher or there is only one teacher then it will adversely affect the rights of the children to get free and compulsory education under the Act, 2009 and it would be a violation of fundamental right of the children as enshrined under Article 21A of the Constitution of India, therefore, any restrictions which come in the way of maintaining pupil teacher ratio would be hit by Article 21A read with Section 25 of the Act of 2009 and the right children of getting free and compulsory education would always supersede the rights of the Teachers to remain posted in a School and hence the Government Order dated 14.11.2205 issued by the State Government in order to achieve the aim of maintaining the pupil teacher ratio cannot be challenged by the Teachers on artificial grounds. The seniority of the Teachers shall not get affected by any

transfer/adjustment which will be made in terms of government order dated 14.11.2025.

56. He further submits that the Committee which has been constituted in terms of Government Order dated 14.11.2025 is to be headed by District Magistrate along with three other members who will take care of the interest of the Teachers also and in absence of any allegations of *mala fide* against the said committee, a transfer which is an incidence of service cannot be challenged by the petitioners on artificial grounds, therefore, claim of the petitioners against the said transfer/posting is in teeth of Section-25 of the Act, 2009 read with Article 21A of the Constitution of India and the same is liable to be rejected by this Court.

57. He further submits that the petitioners have failed to show as to how the Government Order dated 14.11.2025 is contrary to the provisions of RTE Act, 2009 as the same has been issued in order to maintain pupil teacher ratio and even in case there are some discrepancies in transfer of posting the same would be rectified accordingly but for such minor discrepancies would not be a ground of challenge the validity of government order dated 14.11.2025.

58. He further submits that as per the National Education Policy, 2020, the Central Government through Ministry of HRD, in Para – 4.11 provided as follows:-

"बहुभाषावाद और भाषा की शक्ति

4.11 यह सर्वविदित है कि छोटे बच्चे अपनी घर की भाषा / मातृभाषा में सार्थक अवधारणाओं को अधिक तेजी से सीखते हैं और समझ लेते हैं। घर की भाषा आमतौर पर मातृभाषा या स्थानीय समुदायों द्वारा बोली जाने वाली भाषा है। हालांकि, कई बार बहुभाषी परिवारों में, परिवार के अन्य सदस्यों द्वारा बोली जाने वाली एक घरेलू भाषा हो सकती है, जो कभी-कभी मातृभाषा या स्थानीय भाषा से भिन्न हो सकती है। जहाँ तक संभव हो, कम से कम ग्रेड 5 तक लेकिन बेहतर यह होगा कि यह ग्रेड 8 और उससे आगे तक भी हो, शिक्षा का माध्यम, घर की भाषा / मातृभाषा / स्थानीय भाषा / क्षेत्रीय भाषा होगी। इसके बाद, घर / स्थानीय भाषा को जहाँ भी संभव हो भाषा के रूप में पढ़ाया जाता रहेगा। सार्वजनिक और निजी दोनों तरह के स्कूल इसकी अनुपालना करेंगे। विज्ञान सहित सभी विषयों में उच्चतर गुणवत्ता वाली पाठ्यपुस्तकों को घरेलू भाषाओं/मातृ-भाषा में उपलब्ध कराया जाएगा। यह सुनिश्चित करने के लिए सभी प्रयास जल्दी किए जाएंगे कि बच्चे द्वारा बोली जाने वाली भाषा और शिक्षण के माध्यम के बीच यदि कोई अंतराल मौजूद हो तो उसे समाप्त किया जा सके। ऐसे मामलों में जहाँ घर की भाषा की पाठ्य सामग्री उपलब्ध नहीं है, शिक्षकों और छात्रों के बीच संवाद की भाषा भी जहाँ संभव हो, वहाँ घर की भाषा बनी रहेगी। शिक्षकों को उन छात्रों के साथ जिनके घर की भाषा/मातृ-भाषा शिक्षा के माध्यम से भिन्न है, द्विभाषी शिक्षण अधिगम सामग्री सहित द्विभाषी एप्रोच का उपयोग

करने के लिए प्रोत्साहित किया जाएगा। सभी भाषाओं को सभी छात्रों को उच्चतर गुणवत्ता के साथ पढ़ाया जाएगा; एक भाषा को अच्छी तरह से सिखाने और सीखने के लिए इसे शिक्षा का माध्यम होने की आवश्यकता नहीं है।

59. That after the N.E.P., 2020 the medium of teaching is emphasized in Native Language (Matra Bhasha) as there is only one cadre of Assistant Teacher in Service Rules for teaching in School run by Basic Education Board and there is no separate cadre of teacher (English Medium) in Primary School and therefore, a Teacher cannot request to create a Class within a Class more importantly when at least two Teachers are required to be posted in every School run by the Basic Education Board and there is no infirmity in the government order dated 14.11.2025 and for any individual grievances, the candidate can always represent before the District Level Committee raising their objection, if any.

60. Any notification issued under a Central Act shall prevail over conflicting State Rules, in accordance with the principle of federal supremacy. In case of inconsistency, the provisions of the Central Act shall take precedence over those of the State legislation or subordinate rules.

61. If an employee is engaged by the employer under specific service conditions that include a provision for transfer, such conditions must be upheld, even in exceptional circumstances. The fact that certain service rules exist does not negate the possibility of transfer. Furthermore, an employee cannot claim exemption from transfer on the basis of Section 25 of the Right to Education Act, 2009, which mandates the maintenance of an appropriate teacher-student ratio. The objective of ensuring an adequate teacher-student ratio as stipulated under the Act supersedes any individual claim to non-transferability, provided such transfers are consistent with the service conditions agreed upon at the time of employment.

62. If a general transfer is implemented in June across departments or schools, and no specific rule or regulation mandates it, such transfers may still be valid if justified by administrative needs. In the absence of a

governing rule, transfers must be based on reasonable grounds and conducted with fairness and transparency.

63. The transfers in question are within the same district, aimed at minimizing hardship in normal circumstances. The argument against transfer pertaining to inter-district transfers, which is not applicable here, as the transfers are confined to the same district.

64. To maintain the pupil-teacher ratio as mandated under Section 25 of the Right to Education Act, 2009, the State Government issued a Government Order dated 14.11.2025. The Order provides that in cases where a school has no teacher or only one teacher, the District Level Committee may transfer or adjust surplus teachers from other institutions or schools. This measure ensures that, even in the event of a teacher's illness or absence, students are not deprived of education due to the unavailability of teachers.

65. In support of his contention, he has relied upon the judgment of the Apex Court in the case of **Union of India and others vs. S.L. Abbas reported in 1993 AIR 2444.**

66. He has also relied upon the judgment of the Apex Court in the case of **Sri Pubi Lombi vs. The State of Arunachal Pradesh and Others reported in 2024 INSC 200.**

67. In the matters of transfer, scope of judicial review is limited, only when such transfer is in violation of the statutory provisions or due to *mala fide* reasons.

68. In the counter-affidavit filed on behalf of the respondent no.1, it has been specifically averred that the Government Order dated 14.11.2025 was issued transferring the teachers in the larger interest of children and in compliance with Section 25 of the Right to Education Act, 2009.

69. The Government Order dated 14.11.2025 has been issued to ensure that all schools maintain the required teacher-student ratio and that no

school remains without a teacher, thereby safeguarding the educational interests of children.

70. Heard learned counsel for the parties and perused the record. With the consent of learned counsel appearing on behalf of the respective parties, the present matter is being decided on the legal issues alone, which have been duly addressed before this Court.

71. The controversy raised in the present bunch of petitions centres around the issuance of the Government Order dated 14.11.2025, providing for adjustment and redeployment of Basic School teachers. The said Government Order has been issued in furtherance of the statutory mandate of the Right of Children to Free and Compulsory Education Act, 2009, with the specific object of maintaining the prescribed teacher–student ratio, which is fundamental for ensuring quality education and protecting the larger interest of students.

72. The policy underlying the impugned Government Order seeks to achieve a rational and equitable distribution of teaching staff across institutions. It aims to prevent a situation where certain schools are overstaffed while others suffer from acute shortage of teachers, a circumstance which would otherwise defeat the very object of the 2009 Act.

73. It is well settled that formulation and implementation of policy falls within the exclusive domain of the executive, and the Courts, while exercising powers of judicial review, does not sit in appeal over such policy decisions. Interference is warranted only where the policy is shown to be arbitrary, discriminatory, or in violation of statutory provisions or constitutional mandates. In the absence of any such infirmity, particularly when the policy is demonstrably framed in public interest and to fulfill a statutory obligation, the Court would be slow to interfere with the same.

74. While issuing a Government Order for implementation of the Right of Children to Free and Compulsory Education Act, 2009, particularly with regard to adjustment and redeployment of teachers in primary schools to maintain the prescribed teacher–student ratio, the State is required to be guided by the statutory mandate contained in Section 25 of the 2009 Act read with the Schedule appended thereto. The paramount consideration must be the larger interest of students and the effective enforcement of Article 21A of the Constitution of India. The policy must ensure rational, equitable and non-discriminatory distribution of teachers on the basis of objective criteria such as student strength, sanctioned posts and availability of teaching staff, so that no institution remains understaffed while others are overstaffed. The process of adjustment should be transparent, reasonable and administratively feasible, without adversely affecting the service conditions of teachers except as permissible under law. So long as the Government Order is framed in public interest, founded on intelligible criteria, and aimed at achieving compliance with the teacher–student ratio prescribed under the Act of 2009, the same would fall within the domain of policy and ordinarily would not invite judicial interference.

75. A careful examination of the Government Orders dated 23.05.2025 and 14.11.2025 reveals that though both were issued with the common objective of implementing the Right of Children to Free and Compulsory Education Act, 2009 and ensuring adherence to the prescribed teacher–student ratio, they differ substantially in scope, operative mechanism, and degree of enforceability.

76. The Government Order dated 23.05.2025 was essentially an enabling and facilitative measure. It contemplated adjustment of teachers primarily on the basis of options or willingness, thereby attempting to achieve rationalisation without causing large-scale disruption. The emphasis under the said order was on administrative convenience and consensual redeployment, with limited discretion vested in the authorities.

77. In contrast, the Government Order dated 14.11.2025 is comprehensive, mandatory and corrective in character. It was issued upon noticing that despite earlier option-based measures, several institutions continued to suffer from either surplus or acute shortage of teachers, resulting in non-compliance with the statutory teacher–student ratio. The later Government Order, therefore, accords primacy to strict statutory compliance and vests wider authority in the administration to undertake compulsory adjustment wherever necessary to fulfill the mandate of Section 25 of the 2009 Act read with the Schedule appended thereto.

78. Whereas the earlier Government Order sought to balance institutional requirements with individual convenience of teachers, the subsequent Government Order unmistakably prioritises the larger public interest and the welfare of students. It proceeds on the well-recognised principle that individual hardship or preference must yield to constitutional and statutory obligations flowing from Article 21A of the Constitution of India.

79. Thus, the Government Order dated 14.11.2025 cannot be construed as inconsistent with or repugnant to the Government Order dated 23.05.2025. Rather, it is supplemental and curative in nature, issued to remedy deficiencies that persisted under the earlier regime and to ensure effective and meaningful implementation of the Right of Children to Free and Compulsory Education Act, 2009.

80. The learned Senior Counsel, Mr. Ashok Khare, for the petitioners in few writ petitions has raised the principal objections to the Government Order dated 14.11.2025 at the very outset.

81. Firstly, it is contended that the said Government Order suffers from a fundamental infirmity inasmuch as it does not specify the procedure to be followed for adjustment of teachers. In the absence of any prescribed mechanism, guidelines, or safeguards, the process of adjustment is left unguided and open to arbitrariness.

82. Secondly, the timing of the issuance of the Government Order is assailed as being wholly improper and contrary to the statutory scheme. Rule 21 of the Rules of 2011 mandates that the District Magistrate shall review the sanctioned strength of teachers in every school annually before the month of July and thereafter re-deploy teachers strictly in accordance with the assessed requirement. Once the statutory exercise is required to be completed prior to July of each year, there was no occasion or justification for issuing a Government Order in November 2025 for the purpose of adjusting teachers in December 2025.

83. Thirdly, it is submitted that the impugned Government Order is in clear violation of the Rules of 2011, which occupy the field and have statutory force. Any executive instruction issued in derogation of the statutory rules cannot be sustained in law.

84. On the aforesaid grounds, the learned Senior Counsel submits that the Government Order dated 14.11.2025 is arbitrary, dehors the statutory framework, and liable to be struck down.

85. This Court has given anxious consideration to the submissions advanced on behalf of the petitioners. However, upon a careful examination of the statutory framework and the object sought to be achieved by the impugned Government Order dated 14.11.2025, this Court finds no merit in the challenge laid thereto.

86. As regards the contention relating to non-specification of procedure, it is to be noted that the Government Order does not operate in isolation. The adjustment of teachers is governed by the Rules of 2011 and other executive instructions issued from time to time. The impugned Government Order is merely an enabling and facilitative measure intended to give effect to the statutory mandate of maintaining the prescribed student–teacher ratio. Absence of a detailed procedure in the Government Order itself does not render it arbitrary, particularly when the field is already occupied by statutory rules and administrative practice.

87. However, in the present case, while issuing the impugned Government Order, a District-Level Committee under the chairmanship of the District Magistrate has been constituted. The said Committee has been duly empowered to periodically assess and review the ground realities with a view to maintaining the prescribed student–teacher ratio throughout the academic session. Such empowerment has been conferred to meet administrative exigencies and to ensure that the welfare of students is not compromised, thereby effectuating and advancing the object and purpose of the Right of Children to Free and Compulsory Education Act, 2009.

88. With respect to the objection concerning timing, Rule 21 of the Rules of 2011 no doubt contemplates an annual review of sanctioned strength before the month of July. However, the said provision cannot be read as placing an absolute embargo on the State from taking corrective or emergent measures thereafter. The obligation of the State to ensure uninterrupted education and compliance with the student–teacher ratio is a continuing one. If subsequent developments, such as change in enrolment, closure of schools, or acute shortage of teachers, necessitate intervention, the State cannot be rendered powerless merely on account of the passage of the month of July.

89. The issuance of the Government Order in November 2025, therefore, cannot be said to be illegal or without jurisdiction, as it seeks to address pressing administrative exigencies and to safeguard the larger interest of students. The power of the State to issue executive instructions to meet unforeseen situations is well recognised, so long as such instructions do not directly contravene any statutory provision.

90. As regards the alleged violation of the Rules of 2011, this Court finds that the impugned Government Order neither amends nor overrides the statutory rules. On the contrary, it supplements the Rules by facilitating their effective implementation. It is settled law that executive instructions may validly fill in gaps where the rules are silent, provided they are not inconsistent with the statutory framework.

91. The submission advanced by learned counsel for certain petitioners alleging inaction on the part of the respondents on the ground that the transfer orders were issued after a gap of about one and a half months from the issuance of the Government Order is misconceived. Mere passage of time in implementing a policy decision, by itself, does not vitiate the action, particularly when the delay is attributable to administrative exigencies such as assessment of vacancies and compliance with the student–teacher ratio.

92. The grievance that teachers, who had joined pursuant to earlier order dated 17.07.2025, are being repatriated without assigning reasons is equally devoid of substance. The impugned action is neither punitive nor stigmatic but is a consequence of a general policy decision taken in public interest. In such circumstances, individual notice or assignment of personal reasons is not a legal requirement.

93. It is well settled that transfer and adjustment of teachers is an incidence of service, and no employee can claim a vested right to continue at a particular place of posting. In the absence of any pleading or proof of *mala fides*, arbitrariness, or violation of statutory provisions, the Court finds no ground to interfere.

94. In matters of policy and administrative adjustment, particularly in the field of education, the scope of judicial review is limited. Unless the policy is shown to be manifestly arbitrary, *mala fide*, or in clear violation of statutory provisions, this Court would be slow to interfere. No such infirmity has been demonstrated in the present case.

95. It is a settled principle of service jurisprudence that transfer of an employee is an incident and condition of service, falling squarely within the administrative discretion of the employer. The power to transfer is ordinarily exercised in public interest and to meet administrative exigencies, and the courts, while exercising jurisdiction under Articles 226 and 227 of the Constitution, do not sit in appeal over such decisions.

Judicial review in transfer matters is, therefore, exceptional and not routine.

96. The Hon'ble Supreme Court in **Shilpi Bose v. State of Bihar reported in 1991 Supp(2) SCC 659**, has authoritatively held that courts should not interfere with transfer orders unless the same are shown to be vitiated by mala fides or are in clear violation of statutory provisions. Mere inconvenience, hardship, or personal difficulty of the employee does not furnish a legally sustainable ground for interference.

97. However, the rule of non-interference is not absolute. A transfer order becomes amenable to judicial scrutiny where it is established that the same has been passed with mala fide intent, by way of victimisation, or as a colourable exercise of power. Likewise, where the order is issued in contravention of statutory rules governing service conditions, or by an authority lacking competence or jurisdiction, the court would be justified in exercising its power of judicial review. In **State of U.P. and others vs. Gobardhan Lal reported in (2004) 11 SCC 402**, the Hon'ble Supreme Court observed that violation of statutory rules or proven *mala fides* alone can warrant interference in transfer matters.

98. The court may also interfere where a transfer, though innocuously worded, is in substance punitive or stigmatic and has been resorted to as a substitute for disciplinary proceedings, without following the procedure prescribed in law. Such an action would be arbitrary and violative of Articles 14 and 16 of the Constitution, as held in **Somesh Tiwari v. Union of India reported in (2009) 2 SCC 592**.

99. Conversely, deviation from executive guidelines or transfer policies, which do not have statutory force, does not confer any legally enforceable right upon an employee. In **S.L. Abbas (Supra)**, it was clearly held that administrative guidelines are meant for internal governance and their breach, by itself, does not justify judicial interference.

100. In conclusion, judicial intervention in transfer matters is confined to cases where the impugned order is shown to be *mala fide*, arbitrary, punitive in disguise, without jurisdiction, or in clear breach of statutory provisions. In absence of these grounds, the court must exercise judicial restraint, recognising that administrative authorities are best positioned to assess institutional requirements and public interest. Such restraint is essential to maintain the delicate balance between constitutional oversight and administrative autonomy.

101. In the present case, neither the Government Order dated 14.11.2025 nor the consequential transfer orders issued pursuant thereto are shown to be in contravention of any statutory provision. There is also no material on record to establish that the same suffer from mala fides or have been issued with any oblique motive.

102. However, insofar as the grievance of arbitrariness is concerned, the same cannot be adjudicated in abstract. Whether the impugned action is arbitrary or not must necessarily be examined on the touchstone of the individual facts and circumstances of each case.

103. The Government Order dated 14.11.2025, issued for implementation of the Right of Children to Free and Compulsory Education Act, 2009, cannot be held to be arbitrary.

104. It is pertinent to note that under the Government Order dated 14.11.2025, a Committee has been constituted at the district level under the Chairmanship of the concerned District Magistrate, who is the competent authority to oversee and supervise the implementation of the said Government Order. The Committee has been empowered to consider factual aspects on the basis of relevant data, particularly with a view to maintaining the prescribed student–teacher ratio and ensuring effective implementation of the provisions of the Right of Children to Free and Compulsory Education Act, 2009.

105. The Act of 2009 being a Central enactment enacted to secure the fundamental right to education under Article 21-A of the Constitution, its mandate shall prevail and must guide administrative action in the matter of deployment and adjustment of teachers.

106. In view thereof, any individual grievance regarding hardship or alleged arbitrariness may appropriately be placed before the competent Committee, which shall examine the same objectively on the basis of available data and in accordance with law.

107. The Act of 2009, particularly Sections 19 and 25 read with the Schedule, mandates maintenance of the prescribed student–teacher ratio. The impugned Government Order has been issued to rationalise and adjust teaching staff so as to ensure compliance with the statutory requirement and to effectuate the mandate of Article 21-A of the Constitution. A policy framed to implement a legislative command and to advance the larger public interest of students cannot, by its very nature, be termed arbitrary.

108. Judicial review of policy decisions is limited. In **Union of India v. S.L. Abbas, (1993) 4 SCC 357**, and **State of U.P. v. Gobardhan Lal, (2004) 11 SCC 402**, the Supreme Court held that transfer is an incident of service and courts should not interfere unless the action is vitiated by mala fides or contravention of statutory provisions. Further, as observed in **E.P. Royappa v. State of Tamil Nadu, (1974) 4 SCC 3**, arbitrariness is antithetical to equality; however, arbitrariness must be demonstrable and not presumed.

109. In the absence of any pleading or proof of mala fides, hostile discrimination, or violation of statutory rules, and when the Government Order is founded upon objective criteria to maintain the statutory student–teacher ratio, it cannot be characterised as arbitrary but is a bona fide policy measure in furtherance of the constitutional and statutory mandate.

110. A transfer policy can be said to be arbitrary when it lacks a rational basis, confers unguided discretion, or operates in a discriminatory or unreasonable manner, thereby offending Articles 14 and 16 of the Constitution.

111. Though transfer is an incident of service and policy matters ordinarily lie outside judicial review, the Court may interfere where the policy is manifestly unreasonable, capricious, mala fide, or violative of statutory provisions. As held in **E.P. Royappa (Supra)**, arbitrariness is antithetical to equality; hence, any policy that is irrational or unfair is liable to be struck down.

112. The contention raised by the petitioners cannot be brushed aside on the premise that the Government Order dated 14.11.2025 is bereft of any procedural framework. On the contrary, the Government Order does contemplate a definite procedure for rationalization of teachers so as to maintain the prescribed student–teacher ratio in terms of the Right to Education Act, 2009. However, the grievance which merits consideration is not about absence of procedure, but about its improper and inconsistent implementation.

113. Once a procedure is prescribed, whether expressly in the Government Order or by necessary implication, it is incumbent upon the authorities to adhere to the same in letter and spirit. Administrative discretion, howsoever wide, cannot transgress the bounds of procedural fairness. If the record reveals that no consolidated and verified list was prepared prior to effecting transfers, or that the exercise was undertaken without transparent consideration of relevant data, the action would suffer from arbitrariness.

114. Further, the inclusion of Shiksha Mitras and contractual instructors in the process of identifying surplus teachers, if done contrary to the governing statutory framework or settled legal principles, would amount to a misapplication of the procedure itself. The doctrine of fairness in administrative action mandates that similarly situated persons be treated

alike and that distinct categories not be amalgamated in a manner inconsistent with law.

115. Thus, the issue is not of non-existence of procedure, but of non-compliance therewith. Where a prescribed mechanism exists but is not scrupulously followed, the resulting action becomes vulnerable to judicial scrutiny on the ground of arbitrariness and violation of Article 14 of the Constitution of India. Administrative expediency cannot be permitted to override procedural discipline.

116. The State Government, in exercise of its statutory and administrative powers, has consistently issued Government Orders and circulars from time to time for the purpose of implementing the provisions of the Right of Children to Free and Compulsory Education Act, 2009, with due regard to the larger public interest and the overarching objective of safeguarding the educational rights and welfare of students.

117. It is also required to be noticed that, from time to time, several Government Orders have been issued for the implementation of the Right of Children to Free and Compulsory Education Act, 2009. However, the frequent issuance and modification of such Government Orders, in the absence of reliable and updated data regarding surplus and deficit teachers in primary schools, has led to an administrative disarray. The resultant uncertainty has compelled the petitioners to approach this Court repeatedly, thereby giving rise to avoidable rounds of litigation.

118. It is a settled principle of law that even in matters of transfer, though an incidence of service, an opportunity of representation ought to be afforded where the action results in civil consequences or appears to operate arbitrarily. The doctrine of fairness in administrative action mandates that affected teachers be made aware of the basis of their proposed displacement, particularly when such transfers are undertaken *en masse* pursuant to executive instructions.

119. The Court cannot remain oblivious to the fact that frequent transfers and readjustments, carried out without a transparent and data-driven exercise, have the potential to disrupt the academic environment and adversely impact the education of students, which is the paramount consideration under the Act of 2009.

120. In order to bring quietus to the prevailing controversy and to restore administrative stability, it would be appropriate that objections be invited from the affected teachers within a stipulated time. Upon receipt of such objections, the Committee already constituted under the chairmanship of the concerned District Magistrate may examine the same in light of verified data relating to student strength and teacher availability, and thereafter pass reasoned and speaking orders in accordance with law.

121. Such a course would not only uphold the principles of natural justice but would also ensure that the larger interest of students remains protected while maintaining administrative discipline.

122. This being the situation, how much interference is permissible is to be seen, as the scope of judicial review in policy matters is limited. Any policy or action of the Government, unless inconsistent with the Constitution and the laws, or arbitrary, irrational, or an abuse of power, is not subject to judicial review. In the case of **Federation of Railway Officers Association and Others vs. Union of India, reported in (2003) 4 SCC 289**, the Hon'ble Apex Court, observing the aforesaid principles, held as follows:-

“**12.** In examining a question of this nature where a policy is evolved by the Government judicial review thereof is limited. When policy according to which or the purpose for which discretion is to be exercised is clearly expressed in the statute, it cannot be said to be an unrestricted discretion. On matters affecting policy and requiring technical expertise Court would leave the matter for decision of those who are qualified to address the issues. Unless the policy or action is inconsistent with the Constitution and the laws or arbitrary or irrational or abuse of the power, the Court will not interfere with such matters.”

123. The right of the Government to change its policy from time to time, under changing circumstances, cannot be questioned. While holding the aforesaid, the Hon'ble Apex Court in the case of **State of Punjab and Others vs. Ram Lubhaya Bagga and Others, reported in (1998) 4 SCC 117**, observed as follows:-

“25. Now we revert to the last submission, whether the new State policy is justified in not reimbursing an employee, his full medical expenses incurred on such treatment, if incurred in any hospital in India not being a Government hospital in Punjab. Question is whether the new policy which is restricted by the financial constraints of the State to the rates in AIIMS would be in violation of Article 21 of the Constitution of India. **So far as questioning the validity of governmental policy is concerned in our view it is not normally within the domain of any court, to weigh the pros and cons of the policy or to scrutinize it and test the degree of its beneficial or equitable disposition for the purpose of varying modifying or annulling it, based on however sound and good reasoning, except where it is arbitrary or violative of any constitutional, statutory or any other provision of law.** When Government forms its policy, it is based on number of circumstances on facts, law including constraints based on its resources. It is also based on expert opinion. it would be dangerous if court is asked to test the utility, beneficial effect of the policy or its appraisal based on facts set out on affidavits. The Court would dissuade itself from entering into this realm which belongs to the executive. It is within this matrix that it is to be seen whether the new policy violates Article 21 When it restricts reimbursement on account of its financial constraints.”

124. In the case of **Union of India and others vs. S.L. Abbas reported in (1993) 4 SCC 357**, the Hon'ble Apex Court has held that an order of transfer is an incident of Government service. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by *mala fides* or is made in violation of any statutory provisions, the court cannot interfere with it.

125. In the case of **Balco Employees' Union (Regd.) vs. Union of India and Others, reported in (2002) 2 SCC 333**, the Hon'ble Apex Court held that the scope of judicial review is limited in policy decisions. Unless the decision is contrary to any statutory provision or the Constitution, the Court cannot interfere with it and cannot examine the relative merits of different policies merely on the ground that another policy might have been fairer or better. Relevant paragraphs 45, 46, and 87 of the aforesaid judgment are as under:-

“45. In *Narmada Bachao Andolan v. Union of India* (2000) 10 SCC 664 there was a challenge to the validity of the establishment of a large dam. It was held by the majority at p. 762 as follows: (SCC para 229)

"229. It is now well settled that the courts, in the exercise of their jurisdiction, will not transgress into the field of policy decision. Whether to have an infrastructural project or not and what is the type of project to be undertaken and how it has to be executed, are part of policy-making process and the courts are ill-equipped to adjudicate on a policy decision so undertaken. The court, no doubt, has a duty to see that in the undertaking of a decision, no law is violated and people's fundamental rights are not transgressed upon except to the extent permissible under the Constitution.

46. It is evident from the above that it is neither within the domain of the courts nor the scope of the judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. Nor are our courts inclined to strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical.

87. Lastly, we need only to refer to the following observations in the majority decision in *Narmada Bachao Andolan case* (2000) 10 SCC 664 at p. 763: (SCC paras 232-34)

*232. While protecting the rights of the people from being violated in any manner utmost care has to be taken that the court does not transgress its jurisdiction. There is, in our constitutional framework a fairly clear demarcation of powers. The court has come down heavily whenever the executive has ought to impinge upon the court's jurisdiction.

233. At the same time, in exercise of its enormous power the court should not be called upon to or undertake governmental duties or functions. The courts cannot run the Government nor can the administration indulge in abuse or non-use of power and get away with it. **The essence of judicial review is a constitutional fundamental. The role of the higher judiciary under the Constitution casts on it a great obligation as the sentinel to defend the values of the Constitution and the rights of Indians. The courts must, therefore, act within their judicially permissible limitations to uphold the rule of law and harness their power in public interest. It is precisely for this reason that it has been consistently held by this Court that in matters of policy the court will not interfere.** When there is a valid law requiring the Government to act in a particular manner the court ought not to, without striking down the law, give any direction which is not in accordance with law. In other words, the court itself is not above the law.

234. **In respect of public projects and policies which are initiated by the Government the courts should not become an approval authority. Normally such decisions are taken by the Government after due care and consideration. In a democracy welfare of the people at large, and not merely of a small section of the society, has to be the concern of a responsible Government. If a considered policy decision has been taken, which is not in conflict with any law or is not mala fide, it will not be in public interest to require the court to go into and investigate those areas which are the function of the executive.** For any project which is approved after due deliberation the court should refrain from being asked to review the decision just because a petitioner in filing a PIL alleges that such a decision should not have been taken because an opposite view against

the undertaking of the project, which view may have been considered by the Government, is possible. When two or more options or views are possible and after considering them the Government takes a policy decision it is then not the function of the court to go into the matter afresh and, in a way, sit in appeal over such a policy decision."

126. The Hon'ble Supreme Court has time and again opined that projects of public importance should not be halted as the same would be against the larger public interest and the constitutional courts should weigh public interest *vis-a-vis* private interest, while exercising its discretion. The courts are not equipped to comment upon the viability and feasibility of a particular project and whether a particular alignment is good or there can be better option. In such matters, the scope of judicial review is very limited.

127. The Hon'ble Apex Court recently in a case of **Kirloskar Ferrous Industries Limited and another vs. Union of India and others reported in 2024 INSC 848** , has held as under:-

"54. The doctrine of judicial restraint, which is central to this discussion, emphasizes that courts should exercise caution and avoid involvement in policy decisions, as these are complex judgments that require a balancing of diverse and often competing interests. Policies are crafted based on thorough analysis of social, economic, and political factors, considerations beyond the court's purview. **The court is tasked with ensuring that policies do not breach constitutional provisions or statutory limits; however, they should not replace policymakers' judgments with their own unless absolutely necessary.**

56. **While courts have the power of judicial review to ensure that executive actions and legislative enactments comply with the Constitution, this power is not absolute. Judicial review is meant to act as a safeguard against actions that overstep legal boundaries or infringe on fundamental rights, but it does not entail a comprehensive re-evaluation of the policy's wisdom. The judicial review of policy decisions is limited to assessing the legality of the decision-making process rather than the substantive merits of the policy itself.** For example, if a government policy infringes on fundamental rights or discriminates against a particular group, the courts have a duty to strike down such policies. **However, in the absence of constitutional or legal violations, the courts should respect the policy choices made by the executive or legislature.**

57. **The duty of the court in policy-related cases is primarily to determine whether the policy falls within the scope of the authority granted to the relevant body. If the policy decision is within the executive's legal authority and has been made following proper procedures, the courts should defer to the expertise and discretion of the policy-makers, even if the**

policy appears unwise or imprudent. This restraint ensures that the courts do not impose its own perspective on policy matters that are rightly the responsibility of other branches.

128. The Hon'ble Apex Court in the case of **State of U.P. and another vs. Johri Mal reported in (2004) 4 SCC 714** has observed that the power of judicial review is not intended to assume a supervisory role or don the robes of the omnipresent. The courts while exercising the power of judicial review, do not sit in appeal over the decisions of administrative bodies. An order passed by an administrative authority exercising discretion vested in it, cannot be interfered in judicial review unless it is shown that exercise of discretion itself is perverse or illegal. The courts cannot be called upon to undertake the government duties and functions. The court shall not ordinarily interfere with a policy decision of the State. While examining and scrutinizing the decision making process it becomes inevitable to also appreciate the facts of a given case as otherwise the decision cannot be tested under the grounds of illegality, irrationality or procedural impropriety. Thus, to a limited extent of scrutinizing the decision making process, it is always open to the court to review the evaluation of facts by the decision maker.

129. In the case of **Census Commissioner and others vs. R. Krishnamurthy reported in (2015) 2 SCC 796**, the Apex Court has observed as under:-

“33. From the aforesaid pronouncement of law, it is clear as noon day that **it is not within the domain of the courts to embark upon an enquiry as to whether a particular public policy is wise and acceptable or whether a better policy could be evolved. The court can only interfere if the policy framed is absolutely capricious or not informed by reasons or totally arbitrary and founded ipse dixit offending the basic requirement of Article 14 of the Constitution.** In certain matters, as often said, there can be opinions and opinions but the court is not expected to sit as an appellate authority on an opinion.”

130. Further, in **Rajendra Singh v. State of U.P., (2009) 15 SCC 178**, the Hon'ble Supreme Court observed that a transfer policy is not enforceable as a statute and deviation therefrom does not *ipso facto*

render a transfer order illegal. Judicial review is confined to examining the decision-making process and not the merits of the decision itself.

131. In **Major General J.K. Bansal v. Union of India, (2005) 7 SCC 227**, the Apex Court held that in matters involving organizational requirements and administrative exigencies, courts must exercise greater restraint, as the employer is the best judge of where an employee's services are required.

132. In view of the foregoing discussion, the challenge to the Government Order dated 14.11.2025 fails and is accordingly rejected. The said Government Order, having been issued in furtherance of the statutory mandate of the Right of Children to Free and Compulsory Education Act, 2009 and with the object of maintaining the prescribed teacher–student ratio, is hereby upheld.

133. The respondent authorities are directed to ensure expeditious and effective implementation of the Government Order dated 14.11.2025 in a fair, transparent and non-discriminatory manner. While undertaking adjustment and redeployment of teachers, due regard shall be had to objective criteria such as student strength (on the basis of Mid-Day Meal) and sanctioned posts, and unnecessary hardship shall be avoided, as far as practicable, without compromising the larger public interest.

134. It is further observed that the process of adjustment shall not be used as a tool for punitive transfer or victimisation of teachers and shall remain confined to the purpose for which the policy has been framed. Any grievance arising out of implementation may be considered by the competent authority strictly in accordance with law.

135. This Court is of the opinion that transfers must conform to the applicable Service Rules and Government Orders issued for implementation of the Right of Children to Free and Compulsory Education Act, 2009. Any action contrary thereto is legally

unsustainable. The following should be kept in mind while passing transfer orders.

(i) Maintenance of the prescribed student–teacher ratio is the dominant and overriding factor. Transfers must be based on verified data identifying surplus and deficit schools.

(ii) A rational exercise founded on consolidated district-level data regarding sanctioned strength, working strength, and enrolment is mandatory. Absence of such data renders the process arbitrary.

(iii) Transfers must be justified by genuine administrative necessity and the larger interest of students. Courts ordinarily do not interfere unless statutory violation or *mala fides* is established, as held in **Shilpi Bose (Supra)**.

(iv) Transfer cannot be punitive, discriminatory, or whimsical. Judicial interference is permissible only when the order is vitiated by *mala fides* or breach of statutory rules, as reiterated in **Gobardhan Lal (Supra)**.

(v) Accordingly, transfers of Assistant Teachers must be data-driven, policy-compliant, and guided solely by administrative exigency and educational welfare. In the absence of arbitrariness, *mala fides*, or statutory violation, such transfers do not warrant judicial interference.

136. It is a settled proposition of service jurisprudence that a writ petition challenging a transfer order ordinarily ought not to be entertained unless the employee first complies with the order and joins at the transferred place. Transfer being an incidence of service, courts refrain from interdicting such orders at the threshold. The Supreme Court in **S.L. Abbas (Supra)** authoritatively held that who should be transferred and where is a matter for the employer to decide, and judicial review is confined to cases of *mala fides* or violation of statutory provisions. A similar principle was reiterated in **Shilpi Bose (Supra)**, wherein it was observed that courts should not interfere with transfer orders made in public interest and for administrative reasons.

137. However, the rule is one of prudence and self-imposed restraint, not an absolute bar. In exceptional circumstances, where the action is shown to be arbitrary, based on non-existent or unverified data, or likely to seriously prejudice public interest, constitutional courts are not powerless. As elucidated in **Gobardhan Lal (Supra)**, interference is warranted where the transfer order is vitiated by *mala fides* or contravenes statutory provisions.

138. Upon perusal of the material placed on record, particularly the data available on the UDISE portal, it is not discernible whether, while effecting transfers pursuant to the Government Order dated 14.11.2025, the prescribed criteria, namely, maintenance of pupil-teacher ratio, identification of surplus and deficit institutions, and objective district-level assessment have been scrupulously adhered to.

139. It is further noticed that each writ petition comprises more than one petitioner, however, the individual factual matrices, including the particulars of posting, sanctioned strength, and institutional requirement, have neither been specifically pleaded nor substantiated by cogent material. Since this Court has confined itself to adjudication of the legal validity of the Government Order and finds no statutory infirmity or manifest arbitrariness therein, the individual grievances require factual examination at the administrative level.

140. The Court is confronted with considerable difficulty in adjudicating upon the factual matrix of the present matter. A multitude of writ petitions have been instituted, wherein numerous petitioners have been arrayed in a single proceeding. However, the pleadings are conspicuously silent with regard to the foundational facts necessary for effective judicial scrutiny, particularly the specific data reflecting surplus or deficit of teachers in the respective institutions concerned.

141. In the absence of such essential particulars, this Court is deprived of the requisite factual substratum to meaningfully examine the legality, arbitrariness, or propriety of the impugned action. It is well settled that in proceedings under Article 226 of the Constitution of India, the burden

lies upon the petitioners to place complete and cogent material before the Court so as to enable an informed adjudication. Vague, omnibus, and generalized pleadings cannot form the basis for issuance of a writ.

142. Accordingly, unless the petitioners furnish institution-wise details indicating the sanctioned strength, working strength, and the extent of surplus or deficiency of teachers, this Court would be constrained to decline interference for want of necessary factual foundation.

143. However, in the peculiar facts of the present case, a disturbing situation has emerged owing to the apparent non-availability or non-verification of accurate institutional data, particularly concerning sanctioned strength of teacher and pupil–teacher ratio. Such uncertainty has the potential to adversely affect the educational framework and the larger interest of students. When administrative action, though ostensibly lawful, results in systemic imbalance due to factual infirmities, limited judicial scrutiny becomes imperative to ensure adherence to fairness and reasonableness under Article 14 of the Constitution of India.

144. Therefore, while conscious of the restricted scope of judicial review in transfer matters, this Court finds that the present circumstances constitute an exception warranting calibrated interference, not to supplant administrative discretion, but to ensure that such discretion is exercised on the basis of correct, verified, and objective data so as to safeguard the larger public interest.

145. Accordingly, without expressing any opinion on the merits of the individual claims, and in the interest of justice, it is directed that each petitioner shall submit a separate and comprehensive representation/objection before the District Level Committee constituted under the chairmanship of the District Magistrate within a period of one week from today. Upon receipt of such objections, the Committee shall examine the same in light of the applicable rules, the mandate of the Right of Children to Free and Compulsory Education Act, 2009, and the relevant Government Orders, and shall pass a reasoned and speaking order in accordance with law within one month thereafter.

146. For a period of one month from today or until the passing of a final order by the competent authority, whichever is earlier, status quo as existing today shall be maintained.

147. The concerned authority is further directed to forthwith verify, rectify, and update the correct and authentic data on the UDISE portal and, on the basis of such updated data, to undertake posting and deployment of teachers strictly in accordance with the provisions of the Right of Children to Free and Compulsory Education Act, 2009, so as to ensure and maintain the prescribed pupil-teacher ratio in its true letter and spirit.

148. With the aforesaid observations/directions, these writ petitions are disposed of.

149. The Court records its appreciation for the diligent efforts and valuable assistance rendered by Ms. Vaishnavi Kesarwani, Research Associate. The precision and clarity reflected in the legal research and analysis submitted by her demonstrate commendable attention to detail. The Court acknowledges her contribution in aiding the adjudication of the matter.

(Mrs. Manju Rani Chauhan,J.)

February 17, 2026

Jitendra/DS