

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO. 1514 OF 2016**

Lt. Col. Anil Kumar Yadav .. Petitioner  
versus  
Military Secretary Branch & Ors. .. Respondents

Mr. Ms. Gayatri Singh with Kranti L. C. for Petitioner.  
Mr. B. B. Sharma with Mr. Sureshkumar and Ms Sangeeta Yadav for  
Respondent Nos.1 and 3.

**CORAM: DR. MANJULA CHELLUR, C. J. AND  
M. S. SONAK, J.**

**DATE : 21 DECEMBER 2016**

**P.C.:**

1] During the pendency of the matter, after hearing the submission of respondent Nos.1 and 3 and their voluntariness insofar as accommodating the petitioner in any of the places indicated by them in the list furnished by the respondent authorities, we suggested to the petitioner to choose any one of the places offered by the respondent authorities, but the petitioner refused to opt out for any of the places on the ground that those institutions do not offer the same facilities needed for a multiple disabled child as offered in Mumbai. The respondent authorities are agreeing to allow the petitioner to go on study leave for a period of two years which is also available to petitioner. The petitioner again refuses to accept the same on the ground that after completion of study of two years, he may fail in the examination to be taken by him and further he will be transferred out of Mumbai to any other place at the instance of the respondent authorities.

2] If the petitioner is refusing to go on study leave on the ground that he may be transferred to any other place other than Mumbai after two years, the very intention of the petitioner seems to be that he wants to continue at Mumbai, at any cost on the ground that the child has to reach the stage where he crosses the preliminary initiative period of training or transition by the time he reaches 10 to 15 years of age. As of now the child is of 12 years. The mother and another child who is 5 years old are also living with the petitioner and according to the petitioner he has no support.

3] In the above circumstances, having regard to the fact that initially he was brought from Pune to Mumbai on the ground of giving training to the first child of the petitioner and had completed 5 years of stay, we are of the opinion that the respondent authorities may find it difficult to provide a place to the petitioner at the very same place when many other people are asking to be posted at Mumbai on similar grounds and also on other grounds.

4] For the reasons mentioned above, we vacate the interim order dated 12<sup>th</sup> February 2016.

5] List the matter for final hearing on 9<sup>th</sup> January 2017.

**CHIEF JUSTICE**

**(M. S. SONAK, J.)**

chandka