

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.353 of 2020

Shri P.D. Kokare)
Aged 40 years, Occ : API (FP),)
R/at : Flat No.104, A-Wing, Binavanta)
Paradise, Bhekrainaagar, Hadapsar,)
Pune - 412308.)...**Applicant**

Versus

1. The State of Maharashtra, through)
The Additional Chief Secretary, Home)
Department, Mantralaya, Mumbai 32.)
2. The Additional Director of General of)
Police, (CID), (M.S.) Pune, O/at near)
Law College, Pashan Road, Pune 18.) ...**Respondents**

Shri R. M. Kolge, Counsel for the Applicants

Shri A.J. Chougule, Presenting Officer for the Respondents

CORAM : SHRI A. P. KURHEKAR , MEMBER (J)

DATE : 03.02.2021

ORDER

1. Heard Shri R.M. Kolge, learned Counsel for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.

2. In this O.A., the Applicant who is serving as Junior Finger Print Expert on the establishment of Respondent No.2- Additional Director General of Police (CID, Pune) has challenged his transfer order dated 24.07.2020 whereby he was transferred from Pune to Chandrapur.

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3. Perusal of transfer order dated 24.07.2020 as well as on hearing of learned P.O. and Law Officer, it is noticed that the Respondent No.2 has transferred the Applicant invoking provisions of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as 'Act 2005).

4. Whereas, the Applicant's Counsel contends that though the Applicant is working as Junior Finger Print Expert his post is equivalent to API and he being working in specialized agency, the provisions of Maharashtra Police Act would apply which *inter-alia* provides for constitution of Police Establishment Board (PEB) for specialized agencies as contemplated under Section 22(J)-3 and 22(J)-4 of Maharashtra Police Act.

5. Learned Counsel for the Applicant in this behalf sought to place reliance on the decision rendered by this Tribunal in O.A.No.385/2015 (Shri Gopinath B. Lokhande v/s Additional Director General of Police), decided on 01.12.2015 wherein this Tribunal held that the post of Junior Finger Print Expert is equivalent to Assistant Police Inspector (API) so as to attract Section 22N(1)(e) of Maharashtra Police Act, and further, held that for transfer of such employee there must be compliance of Section 22 J-3 of Maharashtra Police Act. In that case, ultimately the Tribunal quashed the transfer order mainly on the point of non publication of constitution of PEB in official gazette as contemplated under Section 22J-3 of Maharashtra Police Act.

6. Suffice to say, the coordinate bench of this Tribunal in O.A.No.385/2015 has held that the provisions of Maharashtra Police Act would apply.

7. Whereas, learned P.O. sought to contend that after the decision in O.A.No.385/2015, in one another matter i.e. in O.A.No.469/2016 similar issue was raised before this Tribunal and that time after taking opinion of law and judiciary, the Government had issued letter on 24.11.2016 that for transfer of Junior Finger Print Expert, Hand Writing Expert as well as Photographer the

provisions of 'Act 2005' would apply and directions were accordingly issued to the Respondent No.2 to follow procedure under 'Act 2005'.

8. It is on the above background, Respondent No.2 transferred the Applicant invoking provisions of 'Act 2005'.

9. In view of above, the issue for consideration would be whether the transfer is governed by Maharashtra Police Act or Transfer Act, 2005.

10. As stated above, there is decision of this Tribunal in O.A.No.385/2015 that the transfer would be governed by Maharashtra Police Act.

11. Learned P.O. submits that in view of interim relief granted in favour of the Applicant, the matter needs to be decided at the earliest.

12. However, in my considered opinion having regard to the provisions of Section 2(6), (11A) and Section 3 of Maharashtra Police Act, the post of Junior Finger Print Expert does not fall within the term police force or police personnel. The post of Junior Finger Print Expert is only equated to the post of API by G.R. dated 09.05.2000. The nature of duties required to be performed by Finger Print Expert and police personnel are totally different in nature. Therefore, in my opinion, the transfer of Junior Finger Print Expert is governed by 'Act 2005' and not by Maharashtra Police Act.

13. Since, there is a contrary decision of coordinate bench in O.A.No.385/2015, the judicial propriety demands that the issue needs to be finally decided by the Division Bench.

14. In view of above, it would be appropriate that the matter is placed before the Division Bench to answer the following reference :-

(A) Whether the transfer of Junior Finger Print Expert working on the establishment of Respondent No.2 is governed by Maharashtra Police Act or by

provision of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005.

15. Registrar is, therefore, directed to place the matter before the Hon'ble Chairperson for appropriate orders.

Sd/-

(A.P. KURHEKAR)
MEMBER (J)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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Date : 03.02.2021

O.A. Stamp No.129 of 2021 (Aurangabad)

V.H. Mahindrakar ... Applicant
Vs.
The State of Maharashtra & Ors ... Respondents

1. Heard Shri V.B. Wagh, learned Advocate for the Applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondents.

2. All the six applicants pray that they are entitled for the promotional post of Senior Clerk and the orders dated 15.01.2021 and 17.01.2021 issued by Respondent no.2, reverting the applicants from the post of Senior Clerk to Junior Clerk to be quashed and set aside.

3. The Learned Counsel for the applicants submit that the reasons for their reversion as mentioned in the order is due to the surplus appointment of one Shri D.B. Aade in the class of VJNT category. Shri Aade is senior to all the 6 applicants and as Shri Aade is demoted to the post of Junior Clerk from the post of Senior Clerk, these all applicants are consequently reverted to the post of Junior Clerk.

4. The learned C.P.O. seeks time to file affidavit-in-reply as it is first day he submits that order must have been implement as it was passed on 15.01.2021 and 17.01.2021.

5. On query we found that no notice was issued by the respondents to the applicants before passing the orders of their reversion and therefore we grant interim stay to the said orders of reversion dated 15.01.2021 and 17.01.2021 of the Applicants, till filing of the affidavit-in-reply by the learned C.P.O.

6. Adjourned to 17.02.2021. Matter be placed on board at Aurangabad Bench.

Sd/-

(P.N) Dixit
Vice-Chairman

Sd/-

(Mridula Bhatkar J.)
Chairperson

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

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Date : 03.02.2021

**M.A.No.30 of 2021 in O.A. Stamp No.129 of 2021
(Aurangabad)**

V.H. Mahindrakar ... Applicant
Vs.
The State of Maharashtra & Ors ... Respondents

1. Heard Shri V.B. Wagh, learned Advocate for the Applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondents.

2. This is an application for leave to sue jointly.

3. Considering the cause of action pursued by the Applicants is common, concurrent and usual, the cases are not required to be decided separately.

4. In this view of the matter, the present Misc. Application is allowed subject to Applicants paying requisite court fees, if not already paid.

5. M.A. is allowed.

Sd/-

(P.N. Dixit)
Vice-Chairman

Sd/-

(Mridula Bhatkar J.)
Chairperson

prk

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Date : 03.02.2021

**O.A.No.325 of 2018 in O.A.No.13 of 2020
SPEAKING TO MINUTES**

A.M. Jadhav (O.A.325/2018)
R.S. Pawar (O.A.13/2020) ... Applicants
Vs.
The State of Maharashtra & Ors ... Respondents

1. Heard Shri M.D. Lonkar, learned Advocate for the Applicant in O.A.325/2018, Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondent No.2 in O.A.No.325/2018 and for the Respondent No.1 in O.A.No.13/2020 and Shri C.T. Chandratre, learned Advocate for the Respondent No.3 in O.A.No.13/2020.

2. The learned C.P.O. for the Respondents submits that she is not pressing the speaking to minutes view of paragraph 45 of the impugned judgment.

3. In view of the above, praecipe dated 01.02.2021 for speaking to minutes is disposed off.

Sd/-
(P.N. Dixit)
Vice-Chairman

Sd/-
(Mridula Bhatkar J.)
Chairperson

prk

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	<p align="center">Date: 03.02.2021</p> <p align="center">O.A. No.608 of 2019</p> <p>Dr. M.V. PandeApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Shri K.R. Jagdale, learned Advocate for the Applicant has filed leave note. Ms. N.G. Gohad, learned Presenting Officer for the Respondents is present.</p> <p>2. The matter is adjourned for Final Hearing.</p> <p>3. S.O. to 24.02.2021.</p> <p align="right">Sd/- (A.P. Kurhekar) Member (J)</p> <p>NMN</p>

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	<p align="center">Date: 03.02.2021</p> <p align="center">O.A. No.1061 of 2019</p> <p>P.R. AcharekarApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri U.V. Bhosle, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. Today learned P.O. has filed Affidavit-in-Sur-Rejoinder on behalf of Respondent No.4 & 5 as well as Respondent No.6 separately. It is taken on record.</p> <p>3. Pleading is complete. Admit for Final Hearing.</p> <p>4. S.O. to 15.02.2021.</p> <p align="right">Sd/- v (A.P. Kurhekar) Member (J)</p> <p>NMN</p>

Office Notes, Office Memoranda of Coram,
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Tribunal's orders

Date: 03.02.2021

O.A. No.961 of 2019

R.P. AdisareApplicant
Versus
The State of Maharashtra & Ors.Respondents.

1. Heard Shri Bhushan A. Bandiwadekar, learned Advocate for the Applicant and Ms. N.G. Gohad, learned Presenting Officer for the Respondents.

2. In the present O.A. Applicant has challenged suspension order dated 31.07.2019.

3. As Respondent failed to file Reply despite enough chances, ^{Matter} ~~Matter~~ is already proceeded without Reply by order dated 06.01.2020.

4. Thereafter when matter was ^{listed} ~~heard~~ on 26.02.2020 it was adjourned on the statement made by learned P.O. that issue of revocation of suspension is under consideration.

5. Today when asked learned P.O. states that the concerned official are transferred and requested for time to take instructions about revocation of suspension of the Applicant.

5. Whereas Shri B.A. Bandiwadekar on instructions from his Applicant states that he is still under suspension and not reinstated.

6. In view of above matter needs to be heard on merit.

7. Shri B.A. Bandiwadekar requested for short time for hearing. Matter to be kept tomorrow.

8. S.O. to 04.02.2021.

Sd/-
v~
(A.P. Kurhekar)
Member (J)

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	<p align="center">Date: 03.02.2021</p> <p align="center">O.A. No.480 of 2019</p> <p>J.R. SagreApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Applicant and his Advocate both are absent. Ms. N.G. Gohad, learned Presenting Officer for the Respondents is present.</p> <p>2. Perusal of record reveals that this O.A. was unlisted in last six months due to Covid-19 Pandemic situation and lockdown and for the first time it is listed for hearing.</p> <p>3. As after long gap matter is listed today for first time, it would be appropriate to give opportunity to Applicant and his Advocate.</p> <p>4. Matter to be kept for hearing at the stage of Admission.</p> <p>5. S.O. to 23.02.2021.</p> <p align="right">Sd/- (A.P. Kurhekar) Member (J)</p> <p>NMN</p>

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	<p align="center">Date: 03.02.2021</p> <p align="center">O.A. No.896 of 2019</p> <p>S.P. BidarkarApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Applicant and his Advocate both are absent. Ms. N.G. Gohad, learned Presenting Officer for the Respondents is present.</p> <p>2. Perusal of record reveals that this O.A. was unlisted in last six months due to Covid-19 Pandemic situation and lockdown and for the first time it is listed for hearing.</p> <p>3. As after long gap matter is listed today for first time, it would be appropriate to give opportunity to Applicant and his Advocate.</p> <p>4. Matter to be kept for hearing at the stage of Admission.</p> <p>5. S.O. to 23.02.2021.</p> <p align="right">Sd/- (A.P. Kurhekar) Member (J)</p> <p align="center">NMN</p>

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	<p align="center">Date: 03.02.2021</p> <p align="center">O.A. No.1207 of 2019</p> <p>M.D. MagdamApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri M.B. Kadam, learned Advocate for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.</p> <p>2. Today, learned P.O. has filed short Affidavit on behalf of Respondent No.8. It is taken on record.</p> <p>3. On request of learned Advocate for the Applicant, the matter is adjourned for hearing at the stage of admission.</p> <p>4. S.O. to 24.02.2021.</p> <p align="right">Sd/- (A.P. Kurhekar) Member (J)</p> <p>NMN</p>

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	<p align="center">Date: 03.02.2021</p> <p align="center">M.A.42 of 2020 in O.A. No. 1227 of 2019</p> <p>H.S. KhudeApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Applicant and his Advocate both are absent. Ms. N.G. Gohad, learned Presenting Officer for the Respondents is present.</p> <p>2. Adjourned to 16.02.2021 for hearing of M.A.</p> <p align="right">Sd/- (A.P. Kurhekar) Member (J)</p> <p>NMN</p>

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	<p align="center">Date: 03.02.2021</p> <p align="center">O.A. No. 1222 of 2019</p> <p>S.J. HullyalkarApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Applicant and his Advocate both are absent. Smt. Archana B.K., learned Presenting Officer for the Respondents, is present.</p> <p>2. Perusal of record reveals that this O.A. was filed on 17.12.2019 challenging suspension order dated 19.01.2018. The matter was listed for admission on 08.01.2020 but Applicant and his Advocate both were absent and therefore it was removed from the board. Thereafter it remained unlisted due to Covid-19 Pandemic situation and lockdown. After lockdown today it is listed for admission.</p> <p>3. In view of above I think it appropriate to give opportunity to the Applicant and his Advocate.</p> <p>4. Adjourned for admission.</p> <p>5. S.O. to 05.02.2021.</p> <p align="right">Sd/- W (A.P. Kurhekar) Member (J)</p> <p>NMN</p>

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
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	<p>Date: 03.02.2021</p> <p>O.A. No.428 of 2020 with O.A. No.429 of 2020 with O.A. No.430 of 2020 with O.A. No.431 of 2020</p> <p>N.R. Tekam Y.D. Ogale R.K. Giripunje M.R. ChaudhariApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Applicants and their Advocate are absent. Shri A.J. Chougule, learned Presenting Officer for the Respondents is present.</p> <p>2. Learned P.O., Shri A.J. Chougule today has filed Affidavit-in-Reply on behalf of Respondent No.2 in all O.As.. It is taken on record. Since A.J. Chougule submits that Reply of Respondent No.1 is not necessary.</p> <p>3. Matters to be kept for hearing at the stage of admission.</p> <p>4. S.O. to 22.02.2021.</p> <p align="right">  Sd/-  (A.P. Kurhekar) Member (J) </p> <p>NMN</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date: 03.02.2021</p> <p>O.A. No.677 of 2020 with O.A. No.678 of 2020 with O.A. No.679 of 2020 with O.A. No.680 of 2020</p> <p>U.R. Mode S.S. Mujawar R.S. Patil S.A. PatilApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri Gaurav A. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. Respondent No.1 Chief Conservator of Forest (T) has already filed Reply.</p> <p>3. In O.A. No.679/2020 and O.A. No.680/2020 Respondent No.2 appeared on last date and sought time to file Reply. However, today Respondents No.2 in O.A. No.679/2020 as well as Respondents No.2 in O.A. No.680/2020 is absent.</p> <p>4. In O.A. No.678/2020 Respondent No.2 is already served but did not appear since beginning.</p> <p>5. On request of learned Advocate for the Applicant time is granted for filing Rejoinder, if any.</p> <p style="text-align: right;">  Sd/-  (A.P. Kurhekar) Member (J) </p> <p>LATER ON</p> <p>6. Respondent No.2 in O.A. No.679/2020 as well as Respondent No.2 in O.A. No.680/2020 appeared at 01.00 p.m. and filed their one page Reply stating that they have joined in terms of transfer order in place of Applicant. Their Reply is taken on record.</p> <p>7. S.O. to 11.02.2021.</p> <p style="text-align: right;">  Sd/-  (A.P. Kurhekar) Member (J) </p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
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	<p align="center">Date: 03.02.2021</p> <p align="center">O.A. No.548 of 2019</p> <p>A.S. BanerjeeApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri Bhushan A. Bandiwadekar, learned Advocate for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.</p> <p>2. Today learned P.O. has filed Affidavit in Additional Sur-Rejoinder on behalf of Respondent No.1&2. It is taken on record.</p> <p>3. Since pleading is complete. Admit for Final Hearing.</p> <p>4. S.O. to 24.02.2021.</p> <p align="right">Sd/- (A.P. Kurhekar) Member (J)</p> <p>NMN</p>

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	<p>Date : 02-02.2021</p> <p align="center">O.A.No.577 of 2020</p> <p>P.Y. ShelarApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri Kishor Jagdale, learned Counsel for the Applicant, Shri A. J. Chougule, learned Presenting Officer holding for Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondent Nos.1 to 3 and Shri M.A. Patil learned Counsel for the Respondent No.4.</p> <p>2. Today, learned Counsel for the Applicant has filed Rejoinder. It is taken on record.</p> <p>3. The matter is adjourned for hearing at the stage of admission.</p> <p>4. S.O. to 11.02.2021.</p> <p align="right">Sd/- <i>Wu</i> (A.P. Kurhekar) Member(J)</p> <p>vsm</p>

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	<p align="center">Date: 03.02.2021</p> <p align="center">O.A. No.484 of 2018</p> <p>C.R. GoreApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri Bhushan A. Bandiwadekar, learned Advocate for the Applicant and Ms. N.G. Gohad, learned Presenting Officer for the Respondents.</p> <p>2. On request of learned Advocate for the Applicant, the matter is adjourned for Final Hearing.</p> <p>3. S.O. to 11.02.2021.</p> <p align="right">Sd/- (A.P. Kurhekar) Member (J)</p> <p>NMN</p>

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	<p align="center">Date: 03.02.2021</p> <p align="center">O.A. No.155 of 2019</p> <p>M.K. AtkarApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri Bhushan A. Bandiwadekar, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.</p> <p>2. On request of learned Advocate for the Applicant, the matter is adjourned for Final Hearing.</p> <p>3. S.O. to 15.02.2021.</p> <p align="right">n Sd/- (A.P. Kurhekar) Member (J)</p> <p>NMN</p>

Date: 03.02.2021

O.A. No.403 of 2020

A.P. MahaleApplicant
Versus
The State of Maharashtra & Ors.Respondents.

1. Heard Shri C.T. Chandratre, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.
2. Today learned P.O. requested to take on record Affidavit-in-Reply on behalf of Respondent No.1 & 2, since it was not filed on previous date despite the submission to that effect.
3. Allowed to file Affidavit-in-Reply. It is taken on record.
4. In O.A. Applicant has challenged transfer order dated 10.08.2020 whereby she was transferred from Nashik to Shrirampur, District Ahemdnagar.
5. By way of interim order dated 03.02.2020 Applicant was allowed to continue at Nashik since no other officer was posted in her place.
6. The Learned Advocate for the Applicant Shri C.T. Chandratre submits that O.A. to be disposed of with direction to the Respondent No.1 to consider the Representation made by the Applicant on 17.08.2020 (page 58 P.B.) for transfer in Nashik District as her husband is serving Live Stock Development Officer, Niphad, District Nashik.
7. In view of above O.A. is disposed of with directions to Respondent No.1 to consider the representation made by the Applicant dated 17.08.2020 and shall pass the appropriate order in accordance of rules within one month from today.
8. Till then only interim directions given by the Tribunal in order dated 03.02.2020 shall continue.
9. O.A. is accordingly disposed of with no order as to costs.

Sd/-

(A.P. Kurhekar)
Member (J)

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

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Original Application No. of 20

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p align="center">Date: 03.02.2021</p> <p align="center">O.A. No.963 of 2019</p> <p>A.M. PujariApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Applicant and his Advocate both are absent. Shri A.J. Chougule, learned Presenting Officer for the Respondents is present.</p> <p>2. Perusal of record reveals that this O.A. was lastly listed before the Tribunal on 27.03.2020 and thereafter it remained unlisted due to Covid-19 Pandemic situation and lockdown.</p> <p>3. In view of above Applicant and his Advocate both seems unaware about today's hearing.</p> <p>4. I therefore think it appropriate to give them one opportunity of hearing instead of dismissing the O.A. today.</p> <p>5. Adjourned for Final Hearing.</p> <p>6. S.O. to.17.02.2021.</p> <p align="right">Sd/- (A.P. Kurhekar) Member (J)</p> <p align="center">NMN</p>

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Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 03.02.2021</p> <p align="center">M. A. No.55 of 2021 in O.A.No.768 of 2020</p> <p>Devendra T. KatkeApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <ol style="list-style-type: none"> 1. Heard Ms Madhavi Ayappan holding for Shri S. B. Talekar, learned Counsel for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents. 2. During the pendency of this O.A., the applicant has also filed M.A.No.55/2021 for direction to the Respondent No.1 to produce certain documents. 3. Misc. Application is also listed today along with O.A. 4. Learned Counsel for the Applicant submits that production of documents is necessary for the just and proper decision of O.A. in which challenge is to the transfer order. Learned Counsel also wants to file Rejoinder to O.A. 5. In so far as M.A.No.55/2021 is concerned, learned P.O. is at liberty to file reply to M.A. on next date. 6. Learned Counsel for the Applicant, if desires should file Rejoinder by next date without fail so that O.A. can be heard and decided on merit. 7. S.O. to 24.02.2021. <p align="right">Sd/-</p> <p align="right">(A.P. Kurhekar) Member(J)</p> <p>vsm</p>