

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.897 OF 2021

Shri Dinkar M. Patil.)...**Applicant**

Versus

The State of Maharashtra.)...**Respondent**

Mr. Bhushan A. Bandiwadekar, Advocate for Applicant.

Mr. A.J. Chougule, Presenting Officer for Respondent.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 03.11.2021

ORDER

1. The Applicant has challenged the transfer order dated 28.10.2021 whereby he is transferred mid-tenure from the post of Chairman, Maharashtra State Board of Secondary and Higher Secondary Education, Pune to Director, Minority and Adult Education Directorate, Pune on administrative ground.

2. Shri B.A. Bandiwadekar, learned Advocate for the Applicant sought interim relief to the impugned transfer order *inter-alia* contending that the Applicant is made scapegoat for crashing of Website in the month of July, 2021 while declaring results of S.S.C. Examinations by transferring him mid-tenure in contravention of law. According to him, the Technical Committee was responsible for handling the situation, but Applicant is unnecessarily blamed for the same, and therefore, sought interim relief to the transfer order. He has further pointed out that indeed, by order dated 23.08.2021, the Applicant was given regular charge of Chairman,



Maharashtra State Board of Secondary and Higher Secondary Education, Pune. Whereas, alleged lapses took place in the month of July while Applicant was carrying additional charge of the said post. He mean to say, had there being any such lapses on the part of Applicant, he would not have been given regular charge on the said post by order dated 23.08.2021.

3. Per contra, Shri A.J. Chougule, learned Presenting Officer opposed interim relief *inter-alia* contending that the Committee constituted in this behalf had submitted report on 05.10.2021 wherein Applicant was found responsible for crash of Website, and therefore, the matter was placed before the Civil Services Board and after approval of Hon'ble Chief Minister, the impugned transfer order is issued. He, therefore, submits that, *prima-facie*, legal requirements are fulfilled.

4. True, it appears that while Applicant was carrying charge of the of post of Chairman, Maharashtra State Board of Secondary and Higher Secondary Education, Pune, at the time of declaration of results of S.S.C. Examinations, the Website was crashed. In this behalf, the Committee was constituted by G.R. dated 17.07.2021 to fix the responsibility for the said lapses. It is in pursuance of it, the Committee enquired into the matter and submitted detail report to the Government on 05.10.2021. The Committee was headed by Commissioner of Education, M.S, Pune and consists of four other members. The perusal of file reveals that the Committee has *prima-facie* held the Applicant responsible for crashing of Website being head of the Department. Only because Applicant was given regular posting by order dated 23.08.2021 that is not determinative since at that time, the enquiry was in process. It is thereafter, the Committee submitted report on 05.10.2021 indicting the Applicant which necessitated mid-tenure transfer on administrative ground.

5. Accordingly, the matter was placed before the CSB which vetted the transfer of the Applicant from the present post to the post of Director,

Minority and Adult Education Directorate, Pune. It was approved by Minister In-charge of the Department as well as by Hon'ble Chief Minister being competent Authority. The reasons for mid-term and mid-tenure transfers are also noted in the file. As such, *prima-facie*, there is compliance of Section 4(5) of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005.

6. In view of above, no case for interim relief is made out.

7. Issue notice returnable on 22nd November, 2021.

8. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

9. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

10. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.

11. The service may be done by Hand Delivery / Speed Post / Courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

12. In case, notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.



13. S.O. to 22nd November, 2021.

Sd/-
(A.P. KURHEKAR)
Member-J

skw

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
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M.A./R.A./C.A. No.

of 20

I N

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>Date : 03.11.2021</p> <p align="center">O.A.No.892 of 2021 (The matter pertaining to D.B. but due to vacation placed it before S.B.)</p> <p>S. B. KharatApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri Amol Chalak with Shri Anand Deshpande, learned Counsel for the Applicant and Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.</p> <p>2. In present Original Application, the Applicant has challenged the show cause notice dated 29.10.2021 whereby in view of cancellation of Sports Validity Certificate and dismissal of appeal, the Applicant was issued show cause notice as to why his services should not be terminated within seven days. .</p> <p>3. The Applicant is in service from 2019 on the post of Clerk-cum-Typist on the establishment of Respondent No.5. Learned Counsel for the Applicant contends that since the Applicant is in service from 2019, his services needs to be protected by grant of interim relief.</p> <p>4. Whereas, learned C.P.O. has pointed out that appeals filed by the Applicant are already dismissed, and therefore, opposed interim relief.</p> <p>5. Indeed, perusal of record reveals that the Respondent No.4 –Deputy Director, Sports & Youth Services initially by communication dated 28.02.2018 validated the Sports Validity Certificate but thereafter it seems to have been cancelled.</p> <p>6. In view of above, I am inclined to grant interim relief as prayed in prayer clause (ii) of O.A. till next date.</p> <p align="right">[P.T.O.]</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>7. Issue notice before admission returnable on 16.11.2021.</p> <p>8. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.</p> <p>9. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.</p> <p>10. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.</p> <p>11. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.</p> <p>12. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.</p> <p>13. S.O. to 16.11.2021.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(J)</p> <p>vsm</p>

**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>Date : 03.11.2021</p> <p align="center">O.A.No.890, 891 & 896 of 2021 (All the matters pertaining to D.B. but due to vacation place it before S.B.)</p> <p>R. V. Solunke K. L. Latpate D. M. MoreApplicants</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri Amol Chalak with Shri Anand Deshpande, learned Counsel for the Applicants and Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.</p> <p>2. In all these Original Applications, the Applicants have challenged the impugned communication dated 07.09.2021 whereby their Sports Validity Certificates have been cancelled after three years.</p> <p>3. The Applicants have joined as Police Constable in 2017 from sports category on the basis of Sports Validity Certificate. However, after three years, now the Respondent No.3 – Deputy Director, Sports & Youth Services, Aurangabad Division, Aurangabad by impugned communication dated 07.09.2021 cancelled the Sports Validity Certificate.</p> <p>4. Learned Counsel for the Applicants submits that impugned action is <i>ex-facie</i> illegal since earlier the same authority had validated the Sports Certificate but now after three years Sports Certificates are being invalidated without giving notices to the Applicants, and therefore, prayed for interim relief. Learned Counsel has further pointed out that the Tribunal has granted interim relief in favour of the police personnel in other Original Applications pending before this Tribunal as well as at Aurangabad Bench. [P.T.O.]</p>

Office Notes, Office Memoranda of Coram,
Appearances, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

5. Since the Applicants are already in service from three years on the basis of Sports Validity Certificate, their services needs to be protected by interim relief.
6. In view of above, I am inclined to grant interim relief as prayed in prayer clause (B) of the O.A. till next date.
7. Issue notice before admission returnable on 15.11.2021.
8. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
9. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
10. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
11. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.
12. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.
13. S.O. to 15.11.2021.

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

vsm