

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 1075 OF 2022**

**DISTRICT:- AURANGABAD**

Balchand S/o Dashrath Tejinkar,  
Age: 56 years, Occu. Govt. Service,  
Serving as a Naib Tahsildar in  
Tahsil Office, Khultabad,  
R/o. H. No. 350, 12<sup>th</sup> Scheme,  
CIDCO, N-2, Aurangabad.

**APPLICANT.**

**V E R S U S**

1. The State of Maharashtra,  
Through its Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai-400 032.

**.. RESPONDENT.**

-----  
APPEARANCE : Shri Anant D. Gadekar, learned counsel  
for the applicant.  
: Smt. M.S. Patni, learned Presenting Officer  
for the respondent authorities.  
-----

**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN**

**DATE : 25.04.2023**  
-----

**ORAL ORDER**

Heard Shri A.D. Gadekar, learned counsel for the applicant  
and Smt. M.S. Patni, learned Presenting Officer for the respondent  
authorities.

2. The order dated 21.11.2022, whereby the applicant has been  
transferred from the post of Naib Tahsildar, Khultabad, District

Aurangabad to the post of Naib Tahsildar, Sanjay Gandhi Yojana, Tahsil Office, Bhoom, District Osmanabad is challenged by the applicant in the present O.A. The applicant was transferred to Khultabad on 9<sup>th</sup> August, 2021. It is the grievance of the applicant that after he was posted at Khultabad as Naib Tahsildar in addition to his work of Naib Tahsildar one after another responsibilities were cast upon the applicant including that of Chief Officer of the Khultabad Municipal Council. As is contended in the application in deciding ward reservations for the reserved category some mistake occurred and the entire process was required to be carried out afresh for the relevant post. The mistake occurred was seriously taken by the respondents and more particularly by the Election Commission. According to the applicant, that resulted in issuance of the impugned order. Learned counsel for the applicant submitted that the respondents did not take into account fact that the applicant along with his own work of Naib Tahsildar was carrying the charge of so many other posts and was successfully handling each and every portfolio and did not commit any mistake in discharging the duties on the said post. Learned counsel further submitted that the mistake which had occurred was also not only on the part of the applicant but several factors were responsible for that. Learned counsel submitted that other persons, who are also held responsible along

with the applicant, have been transferred at nearby places in Aurangabad District, whereas the applicant has been sent at Bhoom, District Osmanabad. Learned counsel submitted that the applicant has been transferred in mid-tenure and midterm and at the inconvenient place.

3. Learned counsel appearing for the applicant submitted that the applicant in the circumstances made representation on 1.12.2022 for giving him suitable posting in the Aurangabad District itself. However, that has not been considered and the applicant is continued at Bhoom. Learned counsel submitted that the applicant has been received discriminatory treatment and his transfer is in fact by way of punishment to him. According to the learned counsel, such transfers cannot be sustained according to the guidelines and the provisions made under the Maharashtra Government Servants Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short 'Transfer Act of 2005'). In the circumstances, the impugned order is sought to be set aside.

4. The respondents have refuted the contentions raised and the prayers made in the application. According to the contentions raised in the affidavit in reply the applicant had committed a grave mistake in determining the ward reservation in the election of

Khulatabad Municipal Council and the entire process was, therefore, required to be carried out afresh. It is further contended that in the circumstances under the direction of the Election Commission, the respondents were required to transfer the applicant at Bhoom. According to the respondents nothing illegal has been committed by them and, as such, no interference is called for in the impugned order.

5. Learned Presenting Officer in his arguments reiterated the contentions raised in the affidavit in reply and submitted that the impugned order is passed by considering the circumstances prevailing at the relevant time and since the same has been passed because of the orders issued by the Election Commission, no interference is called for in the said order.

6. I have duly considered the submissions advanced by the learned counsel for the parties. Having regard to the facts, which have come on record and the circumstances in which the applicant has been transferred from Khultabad, District Aurangabad to Bhoom, District Osmanabad and further having considered the provisions under the Transfer Act of 2005, apparently it does not appear to me that any mandate can be given by this Tribunal as has been prayed in the present Original Application. It need not be stated that when the post is transferrable it has to be borne in

mind by the Government employees, that transfer is an incident of service and he has to resume duties at the transferred place or post. It is not the case that without any reason the applicant has been transferred. The case of discrimination though is sought to be made out, it is difficult to reach to any conclusion that the different parameter has been applied only in respect of the applicant. However, it appears to me that when an employee makes a representation, the respondents shall at least inform the reasons for accepting or not accepting his said representation and in such cases as far as possible the respondents shall also give a personal hearing to the applicant concerned. As I noted hereinabove in the matters of transfer where the reasons are assigned and which does not appear unreasonable, there may not be any scope for indulgence by this Tribunal. However, insofar as the grievance of the applicant that his representation also remained unattended deserves to be considered to that extent. In the circumstances, the Original Application stands disposed of with the following direction: -

### **ORDER**

The respondents shall consider the representation submitted by the applicant on 1.12.2022 on its own merit and communicate

the decision thereof to the applicant within a period of 4 weeks from the date of this order. No order as to costs.

**VICE CHAIRMAN**

O.A.NO.1075-2022 (SB)-2023-HDD-transfer