

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI****BENCH AT AURANGABAD****ORIGINAL APPLICATION NO. 1117 OF 2022**

DIST. : OSMANABAD

Harishchandra S/o Anna Pawar, )  
 Age. 55 years, Occ. : Service as Clerk, )  
 Tahsil Office, Bhoom, Tq. Bhoom, )  
 Dist. Osmanabad. )  
 R/o Bhoom, Tq. Bhoom, )  
 Dist. Osmanabad ) .. **APPLICANT**

**VERSUS**

1. The State of Maharashtra, )  
 Through Principal Secretary, )  
 Revenue Department, Mantralaya, )  
 Mumbai – 400 032. )

2. The District Collector, )  
 Osmanabad, Dist. Osmanabad. )

3. The Tahsildar, )  
 Bhoom, Dist. Osmanabad. ) .. **RESPONDENTS**

APPEARANCE :- Shri Shrikant G. Kawade, learned  
 Advocate for the applicant.

: Smt. M.S. Patni, learned Presenting  
 Officer for the respondent authorities.

**Coram : Hon'ble Shri Justice P.R. Bora, Vice Chairman**

**Ddate : 10<sup>th</sup> February, 2023**

**ORDER**

1. Heard Shri Shrikant G. Kawade, learned counsel for the applicant and Smt. M.S. Patni, learned Presenting Officer for respondent authorities.

2. It is the grievance of the applicant that on the basis of some false complaint he has been transferred on deputation from Bhoom to Osmanabad vide order dated 28.11.2022. The learned counsel for the applicant submitted that one lady Smt. Tai Suresh Lande is stated to have filed a complaint against the present applicant with the Hon'ble Health Minister alleging that the applicant is harassing the citizens coming from rural area and more particularly to the old persons and women and hence he be transferred from Bhoom. The learned counsel submitted that on receiving such complaint, it appears that, Hon'ble Minister had directed the learned Collector of Osmanabad to take the necessary action. The learned counsel further submitted that the Collector, Osmanabad hence called for the report from the Tahsildar, Bhoom and in the said report it was informed by the Tahsildar, Bhoom that there was no substance in the allegations made against the applicant. However, in spite

of the report so submitted merely under the pressure of Hon'ble Minister the impugned order has been passed.

3. The learned counsel further submitted that the applicant has not yet completed his normal tenure. When asked when the applicant joined at Bhoom, the learned counsel, on instructions of the applicant, who is present in the Court hall, submitted that the applicant joined at Bhoom on 26.11.2020 and prior to that he was serving at Osmanabad for preceding 5 years. The learned counsel submitted that the applicant has been thus transferred midterm without complying with the mandatory requirements for such transfer. The learned counsel submitted that the reasons for which the applicant is alleged to have been transferred are not only baseless but false. The learned counsel submitted that the applicant was also pressurized by that lady namely Smt. Tai Suresh Lande, however, the applicant did not succumb to her pressure. She has therefore got the applicant transferred by asking the Hon'ble Health Minister. The learned counsel submitted that since the applicant has been transferred without any valid reason and on the false complaint, therefore, the impugned order deserves to be quashed and set aside.

4. The respondent nos. 1 & 2 have filed the affidavit in reply opposing the contentions raised in the Original Application, as well as, the prayers made therein. According to these respondents, the impugned order does not suffer from any illegalities and has been passed for valid reasons. It is contended in paragraph no. 7 of the affidavit in reply that the Tahsildar, Bhoom has conducted the enquiry and submitted report to the Collector, Osmanabad and therefore the order has been passed by the respondent authorities, which is legal and proper. The learned Presenting Officer reiterated the contentions raised in the affidavit in reply and prayed for dismissal of the OA.

5. I have duly considered the submissions advanced on behalf of the applicant and the State authorities. I have also gone through the documents filed on record. The applicant has come out with a specific case that he has been transferred on deputation on the basis of the false complaint raised by one lady by name Smt. Tai Suresh Lande. It has also been brought to my notice that the said lady had made complaint directly to the Hon'ble Health Minister and the Hon'ble Health Minister without verifying the facts stated therein directed the learned Collector, Osmanabad to transfer the applicant from Bhoom to

any other place. In the impugned order also there is reference of the recommendation made by the Hon'ble Health Minister, who happens to be Guardian Minister of Osmanabad.

6. In the impugned order there is reference of the letter from Tahsildar, Bhoom dated 24.11.2022. The applicant has filed copy of the said letter at the time of filing the present OA. Perusal of the said report reveals that the Tahsildar, Boom reported to the learned Collector, Osmanabad that after she enquired into the allegations against the applicant, it is prima-facie noticed by her that there is no substance in the complaint so made. It is significant to note that Tahsildar Bhoom has expressly mentioned that she had never come across any such instance or has not received any complaint against the applicant alleging that he harasses villagers coming from rural area and more particularly to the women.

7. The aforesaid report dated 24.11.2022 was submitted by the Tahsildar Bhoom on instructions of the Collector Osmanabad who has called upon the Tahsildar, Bhoom to submit his report pertaining to the complaint dated 19.11.2022 filed by Smt. Tai Suresh Lande and the report was to be submitted return of the post and accordingly report was

submitted. The documents on record further reveal that the Tahsildar Bhoom was when making further enquiry in the said matter, during the course of enquiry on 27.11.2022 the Hon'ble Health Minister personally directed the Tahsildar Bhoom to see that the applicant is transferred at some different place and in that circumstances the Tahsildar, Bhoom forwarded another letter to the Collector Osmanabad on 27.11.2022. In the affidavit in reply the respondents have not disputed any of the documents which are annexed with the O.A.

8. In the above circumstances, there seems no reason to disbelieve the averments in the correspondence between Tahsildar, Bhoom and the Collector, Osmanabad. In the affidavit in reply though it has been contended that the Tahsildar, Bhoom has conducted enquiry and on the basis of the report submitted by Tahsildar, Bhoom the impugned action has been taken against the applicant, the respondents have not filed on record the said report or any other document with the affidavit in reply. After having gone through the pleadings of the parties and the documents filed on record it is significantly noticed that the impugned order has been passed under pressure of Hon'ble Health Minister and except that there seems no other reason. The respondents have not disputed the fact

that the applicant has not completed the ordinary tenure on the present post. It is also not in dispute that the impugned order though may be for limited period is midterm transfer.

9. Learned Presenting Officer sought to contend that the impugned order is for a temporary period and till enquiry is completed against the applicant, he has been deputed and posted at Bhoom. Respondents have, however, in their affidavit in reply not provided any information as to when the complaint received against the applicant has been forwarded for further enquiry, whether it has been forwarded or not forwarded and what happened to that. Moreover, looking to the nature of the complaints as are made there is no allegation against the applicant that he was involved in sexual harassment of women coming from villages.

10. In absence of any evidence much less cogent evidence the order impugned cannot be sustained. The Hon'ble Bombay High Court has time and again deprecated the practice of transferring Government employee under pressure of Hon'ble Ministers or peoples' representatives and has directed the administration to adhere to the provisions under the Maharashtra Government Servants Regulation of Transfers and

Prevention of Delay in Discharge of Official Duties Act, 2005 and take independent decision. The learned counsel has referred to the judgment of the Hon'ble Bombay High Court in the case of **Balasaheb Vitthalrao Tidke Vs. the State of Maharashtra & Another, Writ Petition No. 8987/2018** dated 12.12.2018.

11. After having considered the facts and circumstances involved in the present matter there has remained no doubt that the impugned order has been passed in utter violation of the provisions under the Transfer Act of 2005 and the guidelines time to time issued in that regard. It is also apparent that the principles of natural justice are not followed. Such an order cannot be sustained and deserves to be set aside. It is accordingly set aside. The Original Application stands allowed, however, without any order as to costs.

**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 10<sup>th</sup> February, 2023**