

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 217 OF 2024**

**(Subject:- Transfer)**

**DISTRICT:-AURANGABAD**

**Ashok s/o Uttamrao Giri,** )  
Age 52 Years, Occu. Service as )  
Police Inspector, Security Hon'ble Bombay )  
High Court Bench at Aurangabad, Tq . and )  
Dist. Aurangabad. )  
Mobile No. 9766157799 ) **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra** )  
Through: The D.G.P., Maharashtra, )  
Office at Shahid Bhagatsing Marg, )  
Colaba, Mumbai-01. )
2. **The Commissioner of Police,** )  
Office at Mill Corner, )  
Tq. Dist. Aurangabad 431001. )
3. **The Election Commissioner of India,**)  
Nirvachan Sadan, Ashoka Road, )  
New Delhi- 110001. )
4. **The Chief Election Officer,** )  
State of Maharashtra, )  
General Administration Department, )  
Office at Madam Cama Marg, )  
Hutatma Rajguru Chowk, )  
Mumbai 400001. ) **RESPONDENTS**

---

**APPEARANCE** : Shri P.M. Nagargoje, learned counsel  
for the applicant.

: Shri M.B. Bharaswadkar, learned Chief  
Presenting Officer for the respondent  
authorities.

: Shri Alok Sharma, learned counsel for  
respondent No.3 i.e. Election  
Commission of India

---

-----  
**CORAM** : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

**DATE** : **21.03.2024.**  
-----

### **ORAL - ORDER**

Heard Shri P.M. Nagargoje, learned counsel for the applicant, Shri M.B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities and Shri Alok Sharma, learned counsel for respondent No.3 i.e. Election Commission of India finally with consent at admission stage.

2. By way of filing this Original Application the applicant is challenging transfer order dated 26.02.2024. Learned counsel for the applicant submits that the applicant is working as a Police Inspector and by order dated 14.01.2024, he came to be transferred from Police Station, Satara to High Court Security considering the directives issued in this regard by Election Commission of India.

3. Learned counsel for the applicant submits that by impugned order dated 26.02.2024 again the applicant came to be transferred from Ch. Sambhajinagar City to Nashik City. Learned counsel for the applicant submits that by order dated 27.02.2024 this tribunal has granted interim relief in terms of

prayer clause VI (A) and despite the said order meanwhile before his transfer by way of impugned order dated 26.02.2024, the applicant came to be transferred to Ch. Sambhajinagar City Police Station from High Court Security post.

4. Learned counsel for the applicant submits that in terms of directives issued by the Election Commission of India, the applicant was working on the post of High Court Security till his transfer by impugned order and as such, he is not covered by the transfer policy as declared by the Election Commission of India.

5. Learned Chief Presenting Officer submits that though by order dated 14.01.2024, the applicant was transferred from Police Station, Satara to High Court Security, in terms of directives issued by Election Commission of India. However, the applicant has completed more than three years in this district during last four years since he is posted in Ch. Sambhajinagar in the year 2019.

6. Learned C.P.O. submits that in view of same, in terms of impugned order dated 26.02.2024, the applicant

came to be transferred to Nashik City, Police Station. Learned C.P.O. submits that the day on which the Tribunal has passed the interim order, the department has tried to serve the applicant with the transfer order i.e. transferring him from High Court Security to Ch. Sambhajinagar City Police Station and they finally served through Whatsapp on 29.02.2024. Learned C.P.O. submits that there is no infringement of interim order passed by this Tribunal.

7. Learned C.P.O., on instructions, however, submits that the counsel representing the Election Commission of India is adopting the submissions made by the learned C.P.O.

8. On careful perusal of the annexures particularly annexure A-2, it appears that by order dated 14.01.2024 the applicant came to be transferred from Police Station, Satara to High Court Security in terms of directives issued by Election Commission of India. It appears that the applicant is working in Ch. Sambhajinagar since 2019 and thus considering the same the department has transferred him to non executive post i.e. High Court Security.

9. Paragraph No.3 of directives issued by Election Commission of India by letter dated 21.12.2023 reads as under:-

“3. Hence, the Commissioner has decided that **no office connected directly with elections shall be allowed to continue in the present district (revenue district) of posting:-**

- (i) **if she/he is posted in her/his home district.**
- (ii) **if she/he has completed three years in that district during last four (4) years or would be completing 3 years on or before 30<sup>th</sup> June, 2024**

**While calculating the period of three years, promotion to a post within the district is to be counted.**

10. In view of the said directives, the Election Commission of India has decided that no officer connected directly with elections shall be allowed to continue in the present district (revenue district) of posting in terms of two conditions as detailed in clause Nos. (i) and (ii) of Paragraph No. 3. In my considered opinion, in terms of para No. 3, the basic conditions is that the officer connected directly with the elections if posted in his home district or if he has completed three years in that district during last four years, is liable to be transferred.

11. In the instant case, the applicant's posting at High Court Security was not directly connected with the elections in any manner. It has been also stated in the said directives issued by Election Commission of India that the Commission has no intention of massive dislocation of State machinery by large scale transfers.

12. In the instant case, it appears that for no reason, despite the interim order passed by this Tribunal, the applicant was moved from High Court Security and posted to Ch. Sambhajinagar City Police Station in order to bring him under transfer policy as declared by the Election Commission of India. There is no justification to defy the order passed by this Tribunal.

13. In view of above, this Original Application deserves to be allowed. Hence, the following order.

**ORDER**

- (A) The Original Application is hereby allowed.
- (B) The transfer order dated 26.02.2024 to the extent of applicant is hereby quashed and set aside.

- (C) In the circumstances there shall be no order as to costs.
- (D) The Original Application is accordingly disposed of.
- (E) The office shall forwarded the papers to the Division Bench of this Tribunal for initiation of Contempt Proceedings against the respondent No.2 for defying the interim order passed by this Tribunal on 27.02.2024.

**MEMBER (J)**

**Place:-Aurangabad**  
**Date : 21.03.2024**  
SAS O.A. 217/2024(S.B.) Transfer