

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 218 OF 2024

(Subject:- Transfer)

DISTRICT:-Ch. Sambhajinagar

Dilip S/o. Vithoba Gangurde,)
Age: 57 years, Occu. Service,)
As Police Inspector Waluj Police Station)
Ch. Sambhanijnagar.)
R/o. C/o. Satish Hambarde,)
Plot No. 21, Cidco, Mahanagar-1,)
Maulinagar, Tisgaon,)
Tq. and Dist. Ch. Sambhajinagar,)
Mobile No. 9923389699.) **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 Kama 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 this Original Application the applicant is challenging the transfer order dated 26.02.2024. Learned counsel for the applicant submits that the applicant is working as a Police Inspector. In terms of directives issued by the Election Commission of India by order dated 26.01.2024, the applicant came to be transferred from Police Station, Waluj to Traffic Branch, Ch. Sambhajinagar City.

3. Learned counsel for the applicant submits that at the time of passing of impugned order dated 26.02.2024, the applicant was holding the non-executive post and as such, his case is not covered by the transfer policy as declared by the Election Commission of India.

4. Learned Chief Presenting Officer submits that the applicant is working as a Police Inspector in Ch. Sambhajinagar since 02.11.2020 and as such he has completed the period of 3 years during the last 4 years in this district. Learned C.P.O. submits that in view of same, the applicant's case is covered by the transfer policy as declared by the Election Commission of India.

5. It appears that though the applicant is working in Ch. Sambhajinagar since 02.11.2020, however, in view of the directives issued by the Election Commission of India, by order dated 26.01.2024, the applicant came to be transferred from Police Station, Waluj (Executive post) to Traffic Branch, Ch. Sambhajinagar (Non-Executive post). It further appears that by impugned order dated 26.02.2024, the applicant came to be transferred from Ch. Sambhajinagar, City to Pune City.

6. It appears that at the time of passing of the impugned order of transfer, the applicant was holding the Non-Executive post. Paragraph No.3 of the letter dated 21.12.2023 issued by Election Commission of India in this

regard is important. The said paragraph No. 3 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 30th June, 2024**

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

7. The bare reading of said paragraph No.3 indicates that the basic condition of the transfer policy as declared by the Election Commission of India is mainly for the officers connected directly with the elections. In view of two conditions as detailed in (i) & (ii) of paragraph No. 3, they are liable to be transferred.

8. In the instant case the applicant was holding the Non-Executive Post and he was not directly connected with elections in any manner. The conditions of paragraph No.3 stand attracted only when the basic condition is fulfilled i.e. if that officer is directly connected to elections. In view of same,

the transfer policy as declared by the Election Commission of India is not applicable to the case of the applicant.

9. Thus considering the entire facts of the case, this Original Application deserves to be allowed. Hence, the following order:-

ORDER

- (A) The Original Application is hereby allowed.
- (B) The impugned transfer order dated 26.02.2024 issued by respondent No.2 thereby transferring the applicant from Chattrapati Sambhajinagar City to Pune City 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.

MEMBER (J)

Place:-Aurangabad
Date : 21.03.2024
SAS O.A. 218/2024(S.B.) Transfer