

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 236 OF 2024
(Subject – Transfer)**

DISTRICT : AURANGABAD

Ganesh s/o Panditrao Tathe,)
Age : 47 years, Occu. : Service as)
Police Inspector, Traffic Branch, Cantonment,))
Tq. and Dist. Aurangabad.) **APPLICANT**

V E R S U S

1. **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 Commission 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- 01.) ... **RESPONDENTS**

APPEARANCE : Shri P.M. Nagargoje, Counsel for Applicant.

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

: Shri Alok Sharma, 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

1. Heard Shri P.M. Nagargoje, learned counsel appearing for the applicant, Shri M.B. Bharaswadkar, learned Chief Presenting Officer appearing for respondent authorities and Shri Alok Sharma, learned counsel for respondent No. 3 i.e. Election Commission of India.
2. Heard finally with the consent of parties at the admission stage.
3. By this Original Application, the applicant is challenging the transfer order dated 26.02.2024.
4. Learned counsel for the applicant submits that the applicant is working as Police Inspector attached to the Chawani Traffic Branch, Chhatrapati Sambhajanagar. By impugned order dated 26.02.2024, the applicant came to be transferred from Chawani Traffic Branch, Chhatrapati Sambhajanagar to Nashik City.
5. Learned counsel for the applicant submits that in terms of the directives issued by the Election Commission of India in the communication dated 21.12.2023, by order dated 07.02.2024, the applicant came to be transferred from Police Station Waluj to Traffic Branch, Chawani. Learned counsel submits that at the time of passing of the impugned transfer

order, the applicant was holding the non-executive post and as such, he is not directly connected with the Elections. Learned counsel submits that the transfer policy declared by the Election Commission of India is not applicable to the applicant.

6. Learned Chief Presenting Officer submits that the Chhatrapati Sambhajinagar is the home district of the applicant and para No. 3 of the said directives in the communication dated 21.12.2023 issued by the Election Commission of India, is squarely applicable to the case of the applicant.

7. In view of the rival submissions as above, it is necessary to reproduce herein below para No. 3 of the directives issued by the Election Commission of India in the communication dated 21.12.2023 :-

“3. Hence, the Commission has decided that no officer 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.”

8. 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 (i) & (ii) of Para No. 3. In my considered opinion, in terms of para No. 3, the basic condition 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.

9. In the instant case, by order dated 07.02.2024 the applicant came to be transferred from Police Station Waluj to Traffic Branch Chawani. It is pertinent to note here that the respondent No. 2 has transferred the applicant from executive post to non-executive post in terms of the directives issued by the Election Commission of India in the communication dated 21.12.2023 and at that time, the home district condition pertaining to the applicant has not been considered. Any way the basic condition No. 3 is not attracted in the instant case and if the applicant is not directly connected with the elections, the transfer policy as declared by the Election Commission of India is not applicable to his case.

10. In view of the discussions as above, the present Original Applications deserves to be allowed. Hence, the following order :-

ORDER

(i) The Original Application is hereby allowed in terms of prayer clause VII (B), which is as follows :-

“B. This Hon'ble Court may please to quashed and set aside the impugned transfer order dated 26.02.2024 of applicant from Chawani Traffic Department Ch. Sambhajinagar to Nashik City on the basis of proposal dated 23.02.2024.”

(ii) In the circumstances, there shall be no order as to costs.
(iii) The Original Application is accordingly disposed of.

PLACE : Aurangabad.

DATE : 21.03.2024

(Justice V.K. Jadhav)

Member (J)