

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

**ORIGINAL APPLICATION NO. 238 OF 2024
(Subject – Transfer)**

DISTRICT : AURANGABAD

Anil s/o Bhanudas Magre,)
Age : 40 years, Occu. : Service as Assistant)
Police Inspector, Jinsi Police Station,)
Tq. and Dist. Ch. Sambhajnagar.)
.... **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.

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 and Shri M.B. Bharaswadkar, learned Chief Presenting Officer appearing for respondent authorities.
2. Heard finally with the consent of parties at the admission stage.
3. By way of this Original Application, the applicant is challenging the transfer order dated 26.02.2024, thereby he has been transferred from Ch. Sambhajinagar to Nagpur City.
4. Learned counsel submits that the applicant is working as Assistant Police Inspector. By order dated 26.01.2024 in terms of the directives issued by the Election Commission of India, the applicant came to be transferred from Police Station Jinsi to Special Branch. Learned counsel submits that the Special Branch is non-executive post and as such, the case of the applicant is not covered under the transfer policy declared by the Election Commission of India by communication dated 21.12.2023.
5. Learned Chief Presenting Officer submits that even though by order dated 26.01.2024 the applicant was shown to

have been transferred from Police Station Jinsi to Special Branch, however, the applicant never joined the said Special Branch in terms of the order dated 26.01.2024. Learned C.P.O. submits that in terms of the information submitted by the applicant himself with regard to the transfers in the wake of ensuing elections of the year 2024, he has shown his present posting as Police Station Jinsi, Ch. Sambhajinagar. Learned C.P.O. submits that Ch. Sambhajinagar is home district of the applicant and since he is attached to the Jinsi Police Station, is directly connected with the elections. Therefore, there is no substance in the present Original Application and the same is liable to be dismissed.

6. In view of the aforesaid 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.”

7. In view of the same, the basic condition is that the officer, who is connected directly with the elections shall not be allowed to continue in the present district (revenue district) (i) if he is posted in his home district and (ii) if he is completed three years in that district during last four years. In the instant case, Ch. Sambhajinagar is the home district of the applicant. In view of the information submitted by the applicant himself, till the transfer of the applicant by way of impugned order, the applicant was holding the executive post being posted at Jinsi Police Station, Ch. Sambhajinagar and as such, he is directly connected with the elections. In view of the same, irrespective of his tenure in Ch. Sambhajinagar he is liable to be transferred from Ch. Sambhajinagar, as being his home district.

8. It appears that though by order dated 26.01.2024, the applicant was shown to have been transferred from Jinsi Police Station to Special Branch, however as per the information submitted by the applicant himself, he has never joined the said posting at Special Branch and till passing of the impugned order he was attached to the Jinsi Police Station, Ch. Sambhajinagar.

9. In view of the discussions as above, I do not find substance in the present Original Application and hence, the same is liable to be dismissed. Hence, the following order :-

ORDER

- (i) The Original Application is hereby dismissed.
- (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)**

KPB S.B. O.A. No. 236 of 2024 VKJ Transfer