

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

**ORIGINAL APPLICATION NO. 240 OF 2024
(Subject – Transfer)**

DISTRICT : AURANGABAD

Hareshwar S/o Raghunath Ghuge,)
Age : 42 years, Occu. : Service as Assistant)
Police Inspector, Cidco Traffic Branch,)
At Mehegaon, Tq. Kannad and)
Dist. Ch. Sambhajinagar.) **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 Sharm, learned counsel appearing for respondent No. 3 i.e. Election Commission of India.

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 Cidco Traffic Division, 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 Begumpura to Traffic Branch Cidco. The applicant was relieved from Police Station Begumpur on 07.02.2024 and joined his transferred post i.e. Traffic Branch, Cidco on 08.02.2024. Learned counsel submits that the applicant is not connected directly with the elections, as he was holding non-executive post

at the time of passing of impugned transfer order. Thus the present Original Application deserves to be allowed.

5. Learned Chief Presenting Officer submits that Ch. Sambhajinagar is home district of the applicant and the applicant thus necessary to be transferred from Ch. Sambhajinagar in terms of the directives issued by the Election Commission of India in communication dated 21.12.2023. Learned C.P.O. submits that 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 terms of the said directives, no officer is directly connected with elections shall be allowed to continue in the

district, which is his home district or he has completed three years in that district during last four years. In the instant case, however, it appears that the applicant was holding non-executive post i.e. Traffic Branch Cidco, Ch. Sambhajinagar at the time of passing of impugned transfer order and as such, the basic condition as laid down in para No. 3 is not fulfilled. The applicant is not the officer connected directly with the elections. Thus the transfer policy as declared by the Election Commission of India by communication dated 21.12.2023 is not applicable to the case of the applicant. Hence, the present Original Application 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 Cidco Traffic Division Ch. Sambhajinagar to Nagpur 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)