

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

**ORIGINAL APPLICATION NO. 244 OF 2024  
(Subject – Transfer)**

**DISTRICT : AURANGABAD**

**Sandip s/o Sitaram Rajput,** )  
Age : 42 years, Occu. : API, )  
R/o Room No. 704, G-Block, New Police Line,) )  
Milk Corner, Chattrapati Sambhajnagar. )

.... **APPLICANT**

**V E R S U S**

**1. The State of Maharashtra,** )  
Through its Principal Secretary, )  
Home Department, )  
Mantralaya, Mumbai-400 032. )

**2. The Director General of Police,** )  
Maharashtra State, Mumbai, )  
Shahid Bhagatsing Marg, )  
Colaba, Mumbai- 400001. )

**3. Special Inspector General of Police,** )  
Chattrapati Sambhajnagar, )  
Zone Chattrapati Sambhajnagar. )  
Station Road, Near Youth Hostel, )  
Padampura Road, Vishrambag, )  
Chattrapati Sambhajnagar 4310001. )

**4. The Superintendent of Police,** )  
Chattrapati Sambhajnagar Rural, )  
Near N-10 Hudco Road, T.V. Center, )  
Chattrapati Sambhajnagar-431001. )

... **RESPONDENTS**

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**APPEARANCE** : Shri A.V. Thombre, counsel holding for Shri  
S.S. Thombre, Counsel for Applicant.

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

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

**DATE : 21.03.2024**  
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**O R A L - O R D E R**

1. Heard Shri A.V. Thombre, learned counsel holding for Shri S.S. Thombre, 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 this Original Application, the applicant is challenging the transfer order dated 23.02.2024, thereby transferring the applicant from Devgaon Rangari Police Station Chattrapati Sambhajinagar Rural to Dharashiv.

4. Learned counsel for the applicant submits that Chattrapati Sambhajinagar is not the home district of the applicant and he came to be transferred only for the reason that he has completed tenure of more than three years in Chattrapati Sambhajinagar district.

5. Learned counsel for the applicant submits that admittedly out of the said tenure, the applicant had worked in Anti-Corruption Bureau Chattrapati Sambhajinagar from 01.09.2019 to 30.06.2023 and thereafter transferred to Police Station Fulambri in Chattrapati Sambhajinagar Rural and thereafter transferred to Police Station Devgaon Rangari in Chattrapati Sambhajinagar Rural.

6. Learned counsel for the applicant submits that in view of the clarification given by the Election Commission of India, which is received by the Chief Election Officer of the State of Maharashtra on 25.01.2024 as per Exhibit-E, the said period of three years out of four years does not include the period spent in the specialized agencies i.e. SID, PCR, CID, HSP, ACB, ATS etc. Learned counsel submits that the applicant has spent more than three years in ACB Chattrapati Sambhajinagar, which is special agency and in view of the said clarification, he has not completed the period of three years in the district and as such, his case is not covered by the transfer policy as declared by the Election Commission of India.

7. Learned Chief Presenting Officer submits that in the communication received from the Chief Election Officer, State of

Maharashtra dated 22.02.2024, the entire tenure of the officer in the district whether it is functional or non-functional is required to be considered. In view of the same, there is no substance in the present Original Application and the same is liable to be dismissed.

8. On perusal of the Exhibit-E, I find much substance in the submissions made on behalf of the applicant by the learned counsel. It appears that the period spent by the officer in the specialized agencies is not required to be counted for the condition No. 2 of para No. 3 of the directives issued by the Election Commission of India by communication dated 21.12.2023. Para No. 3 of the directives issued by the Election Commission of India in the communication dated 21.12.2023 is reproduced herein below :-

*“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 30<sup>th</sup> June, 2024*

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

It appears that the basic condition as per the said para No. 3 is that the officer connected directly with the elections shall not

be allowed to continue in the said district (i) if it is his home district and (ii) if he has completed three years in that district during last four years.

10. In the instant case, in terms of the clarification given by the Election Commission of India, the period spent with specialized agencies is not required to be considered in terms of clause No. (ii) of para No. 3 of the aforesaid communication dated 21.12.2023. Admittedly, the applicant had worked at ACB Chattrapati Sambhajinagar from 01.09.2019 to 30.06.2023 and if the said period is excluded from counting for the purpose of clause No. (ii) of para No. 3 of the communication dated 21.12.2023, then obviously the applicant has not completed three years in Chattrapati Sambhajinagar during the last four years.

11. In view of the discussions as above, 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 VI (B), which is as follows :-

*“B) The impugned transfer order dated 23.02.2024 issued by Respondent No. 3 i.e. Special Inspector General of Police Chattrapati Sambhajinagar Zone Chattrapati Sambhajinagar, Chhatrapati Sambhajinagar thereby transferring the applicant from Devgaon Rangari Police Station Chattrapati Sambhajinagar Rural to Dharashiv may kindly be quashed and set aside and for that purpose issue necessary orders;”*

- (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**