

ORIGINAL APPLICATION ST. NO. 503/2020
(Piraji L. Sormare Vs. State of Maharashtra & Ors.)

CORAM : B.P. PATIL, VICE CHAIRMAN

DATE : 04.05.2020

ORAL ORDER :

Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant could not swear the verification as boundaries of Aurangabad and Ahmednagar Districts are sealed. Therefore he seeks permission to swear the verification in due course. In view of sealing of boundaries of Aurangabad and Ahmednagar Districts permission is granted to the applicant to swear the verification in due course.

3. Learned Advocate for the applicant has submitted that the applicant has been transferred to the post of Additional Collector, Ahmednagar by the order dtd. 20.2.2019 and accordingly he joined the said post. He has submitted that the applicant is working there since February, 2019. He has submitted that the applicant has not completed his normal tenure of posting at Ahmednagar. Learned Advocate for the applicant has submitted that

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applicant is going to retire on 31.3.2021. He has submitted that the applicant has been appointed as a Joint President of District Level Monitoring Committee and as a Nodal Officer for performing various duties under the Epidemic Diseases Act, 1897 and the Disaster Management Act, 2005 for preventing further spread of COVID-19. He has further submitted that the applicant is discharging his duties accordingly and he has conveyed meetings of various Committees in that regard. He has submitted the respondent no. 4 is resident of Ahmednagar District. He was previously serving at Ahmednagar. He is interested in posting at Ahmednagar and therefore to accommodate him the respondent no. 1 issued the orders dtd. 30.4.2020 transferring the applicant at the place of respondent no. 4 and *vice-a-versa*. The impugned orders have been issued in contravention of section 4(4) and 4(5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short the Transfer Act, 2005) and therefore he prayed to stay the execution and operation of the impugned order.

4. Learned Advocate for the applicant has further submitted that the applicant is discharging his duties

as on today and he is not relieved till 12.30 p.m. The applicant has not been served with any relieving order as per the instructions received to him from the applicant. He has submitted that the impugned order is midterm and mid tenure transfer order and has been issued without following the mandatory provisions of section 4(4) and 4(5) of the Transfer Act, 2005. Therefore he has prayed to quash the impugned order.

5. Learned C.P.O. has submitted that the impugned order is issued in view of the provisions of 4(4) and 4(5) of the Transfer Act, 2005 on account of administrative exigency and in the public interest to prevent the spreading of COVID-19. He has submitted that in view of the impugned order the Collector, Ahmednagar has issued the relieving order today and accordingly the applicant is likely to be relieved today. He has submitted that the said instructions are received to him from Shri Vakhare, Tahsildar attached to Collectorate, Ahmednagar. Since the applicant is likely to be relieved today and the impugned transfer order has been issued in view of the provisions of section 4(4) and 4(5) of the Transfer Act, 2005 for

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implementation of preventive steps to be taken to prevent spreading of COVID-19, he has prayed to reject the interim relief as prayed for by the applicant.

6. On perusal of record it reveals that the applicant has been transferred from the post of Additional Collector, Aurangabad to the post of Additional Collector, Ahmednagar vide order dtd. 20.2.2019 and accordingly he joined the said post. He is serving there from February, 2019. He has not completed his normal tenure of posting. The applicant is going to retire on 31.3.2021. The applicant has been appointed as a Joint President of district Level Monitoring Committee and as a Nodal Officer for performing various duties under the Epidemic Diseases Act, 1897 and the Disaster Management Act, 2005 for preventing further spread of COVID-19. Documents on record show that the applicant is discharging duties accordingly. The applicant has not been yet relieved as per the statement made by the learned Advocate for the applicant. The applicant has also not been served with relieving order and he is still discharging duties. Prima-facie it reveals that the impugned order is a midterm and mid tenure transfer order. There is

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nothing on record to show that the provisions of section 4(4) and 4(5) of the Transfer Act, 2005 have been strictly followed by the respondents while issuing the impugned order. In these circumstances it is just to stay the implementation and operation of the impugned order dtd. 30.4.2020 till next date.

7. In these circumstances the execution and operation of the impugned transfer order dtd. 30.4.2020 is stayed till next date.

8. Issue notices to the respondents, returnable on 14.5.2020.

9. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

10. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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11. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

12. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

13. S.O. to 14.5.2020.

14. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN

ARJ ORAL ORDERS 04.05.2020