

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**M.A. No.61 of 2016 in O.A. No.687 of 2015 (D.B.)**

**District : Mumbai**

The Commissioner, )  
State Excise, (M.S.), Mumbai )  
Old Custome House, 2<sup>nd</sup> floor, Fort, )  
Mumbai 23. )...Applicant (Ori.Respondent)

V/s.

1. Shri Raju L. Sonawane )  
Driver-cum-Constable, State Excise )  
R/o. 104, "B" Wing, Emerald Court )  
CHS Ltd., Kondivita Village, R.K. )  
Mandir Road, Andheri (E), Mumbai- )  
400 059. )
2. Shri Sunil S. Walvhal, )  
Driver-cum-Constable, State Excise )  
R/o. 3/16, BIT Chawl, Baburao More )  
Marg, Mumbai Central, Mum-400008)...Respts (Ori. Applicants)

Smt. Kranti Gaikwad, Presenting Officer for Applicant (Ori. Respondent)

Shri M.D. Lonkar, Advocate for Respondents (Ori. Applicants)

DATE : 15.02.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)

ORDER

1. The original respondent to the disposed of O.A. hereby seek extension of time by three months to comply with the said order dated 3.12.2015.

2. I have perused the record and proceedings of this M.A. as well as disposed of O.A. I have heard Smt. Kranti Gaikwad, learned P.O. for the Applicant: (Ori. Respondent :) and Shri M.D. Lonkar, learned Advocate for the respondents(Ori. Applicants).



3. By order above referred to the O.A. came to be disposed of with direction that the request of original applicant for transfer back to the constabulary from the post of Driver be considered and disposed of within two months from that date. After expiry for the period appointed, this M.A. has been presented seeking three months further extension. It is apparently the case of the present applicant that it is a department in charge of revenue collection and the post driver-cum-constable is of pivotal and crucial importance and for those reasons they require time to comply with my above referred order. Though the reply has not been filed, Shri Lonkar, the learned Advocate strongly opposes grant of any relief.

4. Needless to mention that the judicial orders are made for compliance because unless fruits of the lis are reaped by the concerned litigant the very purpose of the same is lost.

5. In fact perusal of the record of this M.A. would show that initially there was a move to challenge my above referred order in the O.A. but now they have apparently decided to implement it and that is if one went by their own word. According to present applicants the post of the Driver is not a much sought after post and the incumbents are by and large disinterested in working as such. I do not think in the presence of the order phrased in a simple language would permit me to examine that aspect of the matter.

6. There is apparently a move going by the recitals in supporting affidavit and documents thereto annexed to seek guidelines from the Government.

7. It is here that the significance of the matter lies. In the first place there are at least two orders on record. The first being of the year 1998



and another being of 30.6.2015 which came to be passed by the Commissioner of State Excise without any guidance. The authorities competent to make an order have to make it and if no guideline was required then one wonders as to how such need has arisen now. I must, however make it clear that if either consciously or unconsciously this course of action proves to be pregnant with the possibility of protraction of implementation of my order or making it just a paper order this is something which would be judicially intolerable.

8. With the abundant clarification as above considering all aspects of the matter, I direct that time to implement my order on the O.A. is extended by four weeks from today finally as a last chance and with this, M.A. is disposed of with no order as to costs.

Sd/-

**(R.B. Malik)**  
**Member(J)**