

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 979 of 2017 (SB)**

Dr. Vaishali d/o Ramesh Rao Patil,  
Aged 37 years, Occ. Service,  
R/o Kewal Colony Gajanan nagar, Amravati  
Tahsil & District Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of Public Health,  
Arogya Bhavan, Mantralaya,  
Mumbai-32.
- 2) The Deputy Director of Public Health,  
Akola Circle, Akola.
- 3) The Director of Health Services,  
Arogya Bhavan, St. George Hospital Compound,  
Mumbai-01.
- 4) The Chief Executive Officer,  
Zilla Parishad, Amravati.  
District Amravati.

**Respondents**

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**S/Shri A.P. Tathod, A. Girdekar, M. Sirsat, Advocates for the  
applicant.**

**Shri S.A. Sainis, learned P.O. for respondent nos. 1 to 3.**

**Shri P.A. Kadu, learned Advocate for respondent no.4.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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## **JUDGMENT**

**(Delivered on this 13<sup>th</sup> day of July,2018)**

Heard Shri A.P. Tathod, learned counsel for the applicant, Shri S.A. Sainis, learned P.O. for respondent nos. 1 to 3 and Shri P.A. Kadu, learned counsel for respondent no.4.

2. The applicant a Medical Officer, Group-A was working at Primary Health Centre (P.H.C.), Bhatkuli, District Amravati and vide impugned order dated 06/12/2017 she has been transferred to Primary Health Centre (P.H.C.), Ramtirth, Tq. Daryapur, District Amravati by the respondent no.4, i.e., the Chief Executive Officer (CEO), Zilla Parishad, Amravati. According to the applicant, she is Group-A Officer and except the Government of Maharashtra nobody including the respondent no.4, i.e., the Chief Executive Officer (CEO), Zilla Parishad, Amravati has authority to transfer her. The said transfer order has been issued against the Circular prohibiting the Chief Executive Officer (CEO) to issue transfer order and therefore order is without jurisdiction, the applicant has claimed that the same impugned order be quashed and set aside.

3. The respondent no.4 has filed the reply-affidavit and stated that the impugned order is not an order of transfer, but it is

order of deputation and temporary one. It is stated that even today the applicant is receiving her pay and allowances from Primary Health Centre, Bhatkuli. In order to avoid breach of public peace and tranquillity the applicant has been temporarily shifted to Primary Health Centre, Ramtirth and it is on her own request, she has been temporarily shifted. It is stated that there were number of complaints against the applicant to the effect that she was not performing her job properly. The MLA of Badnera Constituency also made the complaint against the applicant since she was not remaining present at the Head Quarter. The Nagar Panchayat, Bhatkuli also passed a resolution on 11/11/2016 against the applicant. On 28/11/2017 one Mr. Ramdas Pawar had expired in P.H.C., Bhatkuli and his relatives were not ready to take away the dead body. A mob of about 500 people gathered at P.H.C., Bhatkuli and they were trying to set ablaze the P.H.C. There was threat to the life of applicant and therefore she herself made an application on 06/12/2017 requesting her to shift from P.H.C., Bhatkuli.

4. The respondent no.2, i.e., the Deputy Director of Public Health, Akola also filed the reply-affidavit and justified the order. He denied the allegations that the applicant submitted her

application for transfer vide letter dated 06/12/2017 under pressure, since such allegations were made in the rejoinder-affidavit by the applicant.

5. The learned counsel for the applicant submits that the applicant being a Class-I Officer and her Appointing Authority being the Government, it is the Government only which can transfer the applicant. The applicant has placed on record the earlier transfer order of the applicant dated 30/05/2013 whereby she was transferred from P.H.C., Walgaon to P.H.C., Bhatkuli. This order was issued by the Desk Officer on behalf of Government of Maharashtra. This shows that the Transferring Authority may be the Government of Maharashtra. However, in the present case the impugned order has been passed by the Chief Executive Officer (CEO), Zilla Parishad, Amravati and therefore prima facie the Chief Executive Officer (CEO), Zilla Parishad may not have authority to transfer the applicant. The circumstances in the case are however otherwise. It is the case of respondent no.4 that because of unprecedented situation occurred due to negligence of the applicant, it was necessary to shift her from P.H.C., Bhatkuli to other place in her own interest and not only that the applicant herself gave an application to that effect. It

is also stated that the impugned order dated 06/12/2017 is not a transfer order, but a temporary order. The contents of the impugned order dated 06/12/2017 supposed the defence taken by the respondents. The order itself is self speaking and it reads as under :-

^ mi jkDr l mHkz; fo"K; h i =kUo; sMKW oSkkyh i KVhy] oSkdh; vf/kdkjh] i k-vk-dmz] Hkkrdy; ; kpsckr rkrdkG dk; bkgh dj.ksr l p R; kauh rkrdkG cnyh dj.kckr l rr ykd i frfu/kh rl p tu l keld; krau ekx.kh gkr vkgS l nhlz dz1 vUo; sek-vkenkj] Jh-jfoHkA jk.kk ; kauh MKW oSkkyh i KVhy ; kph rkrdkG cnyh dj.kckr dGfoysvl rk l mHkz dz2 vUo; sl nj i = ek-mi l pkyd] vkjkk; l dk] vdsyk eMG] vdsyk ; kpsdMs i kBo.; kr vkysys vkgS rl p l mHkz dz3 vUo; s ek- vkenkj egkn; ; kauh MKW oSkkyh i KVhy ; kps dk; Zkshckr ukjkt h o l rki 0; Dr d#u R; kph rkrdkG cnyh ckr dGfoys vl rk l mHkz dz4 vUo; sl nj i = ek-mi l pkyd] vkjkk; l dk] vdsyk eMG] vdsyk ; kpsdk; bkgh djhrk i kBo.; kr vkysys vkgS

rl p fnuad 28@11@2017 jksth Jh-jkenk l i okj ; k #X.kpk i k-vk-dmz] Hkkrdy; ; EkseR; u>kyk- R; keGsykd i frfu/kh rl p tuekul krau MKW oSkkyh i KVhy ; kpsckr rhoz ukjkt h vl u dskrthgh vuipr ?kVuk ?MM.; kph 'kD; rk ukdkjrk ; s ukgh- fnuad 28@11@2017 jksth ykd i frfu/kh rl p tuekul krau MKW oSkkyh i KVhy] oSkdh; vf/kdkjh ; kph cnyh rl p dk; bkgh ckr ekB; k i ek.kkr ekx.kh dj.; kr ; ou l rr i kBi jkok l # vkgS MKW oSkkyh i KVhy ; kph rkrdkG i k-vk-dmz] Hkkrdy; ; Ekpu cnyh u dS; kl i k-vk-dmz] Hkkrdy; ; Eksvfi z ?kVuk ?MM.; kph 'kD; rk ukdkjrk ; s ukgh- R; keG S l mHkz dz6 vUo; s MKW oSkkyh i KVhy ; kpsdMhy i k-vk-dmz] Hkkrdy; hpk i Hkkj dk.; kr vkysyk vkgS turpk jks'k c?krk MKW oSkkyh i KVhy ; kauh rkrdkG i k-vk-dmz] Hkkrdy; ; Ekau vU; = inLFkki uk nskS xjt ps vl Y; kus MKW oSkkyh

*iKVhy] oSkdh; vf/kdkjh] i k-vk-dm] Hkkrdgyh ; kauk rkrjijrs 'kkl ukps  
dk; kRrj eatjihps vf/ku jkgw i k-vk-dm] jkerhfK] rk-n; k]ij ; Ekhy oSkdh;  
vf/kdkjh ph nklgh i ns fjDr vl Y; kus i k-vk-dm] jkerhfK] ; Eks i nLFkki uk  
ns; kr ; s vkgs r l p ; kp vkns kklO; sMkWoSkkyh iKVhy] i k-vk-dm] Hkkrdgyh  
; kauk dk; EDr dj.; kr ; s vkgs I c] /krkus rkrdkG i nLFkki hr fBdk.kh #tw  
Ogkos\*\**

6. The learned P.O. has invited my attention to the applicant submitted by the applicant herself. The copy of which is at P.B. page no.55 ( Annex-R-4). In her application the applicant has stated that different incidences had taken place at P.H.C., Bhatkuli and that the political persons from Bhatkuli have personal grievances against her and therefore her mental condition was not proper and if she works there, there may be likelihood of danger to her life and therefore she may be transferred at P.H.C., Ashti, Tq. Bhatkuli. She has also annexed the copy of FIR lodged against her along with that letter. Considering her application, the Chief Executive Officer (CEO), Zilla Parishad, Amravati seems to have passed the impugned order whereby the applicant was temporarily shifted to P.H.C., Ramtirth and was immediately relieved also. It is also material to note that in the impugned order the Chief Executive Officer has also stated that this order will be subject to approval from the Competent Authority, i.e., the Government.

7. In the reply-affidavit the respondent no.2 also justified the action taken by the respondent no.4.

8. The learned counsel for the applicant has also placed on record the appointment order dated 27/02/2009 of the applicant whereby she was appointed as Medical Officer. In the last para of the said order, it has been mentioned as under :-

*^ek-U; k; kf/kdj.kkus fnyY; k vkns'kkud kj 1/2 last come first go 1/2 ; k rRokud kj dk; bkgj dj.; kr ; koh- 3 o'kkā {kk deh dkyko/kh >kyY; k vLFkk; h o9kdh; vf/kdk&; kph fudM vl Y; kl R; kauk l aī/kr mi l pkyd o l aī/kr ftYgk i fj'knps eq; dk; bkgj vf/kdkjh ; kauh vuqdes R; k; k'kh l aī/kr i fjeMGkr @ ftYgk i fj'kn {k=kr fjDr i nkoj vLFkk; h fu; Ørhus l kekou ?; kos l nj fu; Ørh vkns'k fuxTer dY; kurj l aī/krkfo#/n nM vxj dkgh f'k{kk >kyh vl Y; kpsfun'kZukl vkY; kl R; k; k fu; Ørhpsvkns'k jnn dj.; kr ; rhy-\*\**

9. The aforesaid para of the order clearly shows that the Chief Executive Officer (CEO), Zilla Parishad, Amravati in consultation with the Deputy Director of Public Health, Akola have been authorised to post the Medical Officers on temporary basis on the vacant post or under certain circumstances. From the record, it seems that the applicant has been shifted to P.H.C., Ramtirth, because of the unprecedented situation occurred at Bhatkuli for which the applicant may or may not be responsible

and therefore in the interest of justice, the same action has been taken by the respondent authorities. It is a temporary order and therefore cannot be said to be transfer order. I therefore do not find any reason to interfere in the said order. Hence, the following order :-

**ORDER**

The O.A. stands dismissed with no order as to costs.

**Dated :- 13/07/2018.**

**(J.D. Kulkarni)  
Vice-Chairman (J).**

dnk.