

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

**ORIGINAL APPLICATION NO. 339 OF 2018**

**DIST. : JALNA**

Shrikrushna s/o Madhukarrao Kulkarni,) )  
Age. 41 years, Occ. Service as Talathi ) )  
Aavhana Sajja, Tal. Bhokardan, ) )  
R/o Lalgadi Galloi, Bhokardan, ) )  
Tal. Bhokiardan, Dist. Jalna. )--

**APPLICANT**

**VERSUS**

1. The State of Maharashtra, ) )  
Through the Secretary, ) )  
Revenue and Forest Department, ) )  
Mantralaya, Mumbai -32. ) )
2. The Collector Jalna, ) )  
Collector Office Jalna, Dist. Jalna.) )
3. The Sub-Divisional Officer-cum- ) )  
Assistant Collector, ) )  
Bhokardan, Dist. Jalna. ) --

**RESPONDENTS**

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**APPEARANCE** : Shri Vishnu Y. Patil, Advocate for the  
applicant.

: Smt. Sanjivani K. Deshmukh-Ghate,  
Presenting Officer for the respondents.

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**CORAM** : **JUSTICE A.H. JOSHI, CHAIRMAN.**

**RESERVED ON** : **07.03.2019.**

**PRONOUNCED ON** : **08.03.2019.**  
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**J U D G M E N T**

1. Heard Shri Vishnu Y. Patil, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents. Perused the record.

2. Case proceeds on following admitted facts :-
- a) Applicant was posted at sajja Aavhana, Tq. Bhokardan on 04.07.2016.
  - b) By impugned order dated 31.05.2018 applicant is transferred from Aavhana, Tq. Bhokardan to Khasgaon, Tq. Jafrabad.
  - c) An incident was reported to Collector Jalna by Dr. Paresh M. Choudhari, Naib Tahsildar, Bhokardan, for reporting that on 28.02.2018 between 1 to 2 noon four employees amongst whom applicant was one, abused and manhandled him for reasons stated in compliant/report dated 16.04.2018.
  - d) Collector, Jalna has forwarded the complaint/report of Dr. Paresh M. Choudhari, Naib Tahsildar, Bhokardan to S.D.O., Bhokardan, and has directed him to take steps according to rules and transfer the Talathis (applicant).
  - e) Cross complaints/FIRs have been filed, one by Smt. Ashwini Deshpande and another by Dr. Shri Paresh M. Choudhari.
  - f) Civil Services Board at the level of Sub-Division Bhokardan was held on 30.05.2018 and it decided, *inter alia* various transfers, to transfer the applicant, based on which impugned transfer order has been issued.
  - g) Impugned transfer is mid-tenure, though not mid-term.

3. In the background of admitted facts narrated in foregoing para, applicant has challenged the transfer on sole ground that mandatory requirements under Section 4(4) and Section 4(5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short 'the R.O.T. Act 2005) have not been complied with.

4. Coming to the point of Section 4(4) of R.O.T. Act, 2005 :-

- a) It is seen that the fact of cross complaints/FIRs and a long narrated complaint by an officer of the cadre of Naib Tahsildar, for maintaining order in the office, measures such as transfer is just imperative.
- b) Transfer is not a punitive measure.
- c) In the situation like one at hand, transfer has to be viewed as an interlocutory measure.
- d) Transfer, in the background of complaint would definitely involve some stunning but it is definitely not punitive.
- e) When exceptional circumstances such as those have cropped up in present case, proof to hilt of imputation is not needed. It suffices to take a palatable feel.
- f) It has to be borne in mind that the executive has to function on just principles and not on judicial procedure.

- g) Deep Judicial scrutiny of all executive decisions is not contemplated when it comes to executive powers.
- h) Adequacy of reasons leading to an executive decision cannot and ought not be gone in to.

Hence, this Tribunal has to hold that on facts exceptional circumstances do exist and those are born on record.

5. Next question to be considered is about compliance of Section 4(5) of R.O.T. Act, 2005. This question has a totally different facet in present case.

6. Record shows that Collector Jalna is authority next-higher to S.D.O., Bhokardan wrote a letter dated 18.04.2018 (Exhibit R-4, page No. 50) and directed S.D.O., Bhokardan to transfer the Talathi named in the complaint by observing the rules and procedure. In the background of an order by the Collector re-routing the subject to the Collector was in the facts of the case in the nature of repeating an empty formality. Hence on facts, this Tribunal holds that Section 4(5) was impliedly complied.

7. In view of the discussion in foregoing paragraphs, this Tribunal holds that impugned order cannot be faulted due to any illegality.

8. Therefore, Original Application has no merit and is dismissed.

9 Parties are directed to bear own costs.

**(A.H. JOSHI)**  
**CHAIRMAN**

**Place : Aurangabad**

**Date : 08.03.2019.**

KPB-O.A.NO. 339 OF 2018 S.B. (TRANSFER)