

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 607/2016.**

Dr. Vilas Namdeorao Ghate,  
Aged about 49 years,  
R/o 20, Om Colony,  
Gulhane Nagar , Amravati,  
Tq. and Distt. Amravati. ----- **Applicant.**

**Versus**

The State of Maharashtra,  
Through its Secretary,  
Higher and Technical Education Department ,  
Mantralaya, Mumbai

2. The Director of Technical Education,  
3, Mahapalika Marg, Mumbai.

3. The Govt. College of Engineering,  
Chandrapur. ----- **Respondents.**

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1. Shri P.S.Patil, Advocate for the applicant.
  2. Smt. S.V. Kolhe, Presenting Officer for the Respondents.

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**CORAM : S.S. Hingne: Member ( J )**

**DATE : 4<sup>th</sup> January, 2017**

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**ORDER**

Heard Shri P.S. Patil, Id. counsel for the applicant and Smt. S.V. Kolhe, Id. P.O. for the respondents.

2. With consent of Id. counsel for both the sides, the matter is heard and decided at the admission stage.

3. The applicant, Asstt. Professor, seeks the transfer from Chandrapur. He was appointed in 1994 as a Lecturer in Govt. Polytechnic College. On 30/4/2002 he was appointed as a Lecturer in the Engineering College. The applicant was transferred in 2011 to the Engineering College, Chandrapur as an Asstt. Professor and joined on May/June, 2011. Since then he is working there.

4. The applicant made the representation on 24/6/2016 (Annex.A-5, page-36-37) for transferring him from Chandrapur to Amravati. The applicant relied on the provisions in the G.R. dtd.11/7/2000 (Annex.A-2, page-18) and the G.R. dtd. 6/8/2002 (Annex.A-3, page-24 ). He also referred to the communication dtd.20/2/2015 (page-39) and dtd.17/4/2015(Annex-A-6, page-42)

of the respondents and submitted that the transfer from autonomous college to non-autonomous college is permissible. It is also contended that one Lecturer has filed O.A. No.675/2014 seeking the relief of transfer and accordingly the order was issued on 24/4/2015 ( Annex.A-7, Page-43). The applicant has applied for transfer from Chandrapur but the orders were not issued (Annex-A-4) in 2014-2015. Consequently the O.A. is filed seeking the transfer by approving the proposals dtd. 20/2/2015 and 17/4/2015.

5. The respondents' case is that the applicant is an Asstt. Professor and holds a Group-A post and liable to transfer anywhere in the State of Maharashtra. Earlier the applicant served at Amravati for 9 years. The applicant completed his tenure at Chandrapur but the transfer from teaching faculty, autonomous college to non-autonomous College is not permissible. However, the applicant's case will be considered at the time of annual general transfers. It is also contended that the applicant cannot claim the transfer as a right relying on the provisions in the G.R. However, his case will be

consider in the general annual transfers of the coming year i.e. 2017.

6. Undisputedly the applicant is working in the tribal/naxalite affected area from 2011. As per clause 2 ( b) of the G.R. dtd. 11/7/29000, the employees who had done good work for 2 years in such areas, is to be posted at the place of his choice. Clause 2(d) of the G.R. dtd. 6/8/2002, also mentions the same provision. No doubt, the employee cannot claim the transfer on the basis of the provisions in the G.R. which cannot confer any right to the employee which can be enforced in the court of law. However, the G.Rs. are issued to regulate the work and the provisions to be followed for smooth working and to safe guard the interest of the concerned. Such employees who are working in the tribal/naxilite affected areas the incentive is given. Therefore the provision is made that after serving for 2 years , the employee is to be posted at the place of his choice. Needless to mention that such provisions are made not only to remain on paper. It is also worthwhile to note that the employees who have worked and posted in such

areas, cannot be continued there for a long period. On the contrary, all the employees should be periodically posted in such areas so that no inconvenience will be caused to the employees. Keeping the employees years together at one place may cause inconvenience to them but that is at the cost of convenience of the other employees who are not posted in such areas. To have maintained equality the provisions in the G.R. need to be implemented so that maximum employees will be posted in the tribal areas by taking out the employees who have worked there for a particular period.

7. The Id. counsel for the applicant relied on the order dtd. 27/4/2015 passed by the Tribunal in O.A. No.675/2014 wherein the O.A. was disposed of with the direction to consider the case of the applicant in the general annual transfers of 2015 in the light of the reasons given in the representation and in the light of the provisions of the G.Rs. issued from time to time. The Id. counsel further submits that on that basis of that order the respondents have issued the transfer order dtd. 23/9/2015

(Annex.A-7, page 43) of the applicant, Sandeep Lanhade from Gadchiroli to Nagpur.

8. The Id. P.O. further submits that the respondents will consider the case of the applicant in the general annual transfers of 2015 but he could not be transferred to Amravati for the reason that Amravati College of Engineering is the Autonomous body and the applicant at present is serving in the institution which is non-Autonomous body and the transfer from such Non-Autonomous Body to Autonomous body is not permissible. No provision is brought to the notice laying down such bar. However, the Id. P.O. relied on Rule 8 of the Principal or Director, Professor, Associate Professor, Assistant Professor and Workshop Superintendent in Government Engineering Colleges and Government Pharmacy Colleges (Recruitment) Rules, 2012 (Annex-A), which runs as under :-

***“ Appointment to the posts in autonomous Engineering Colleges and autonomous Pharmacy colleges shall be made according to these rules and a person appointed to the post mentioned in rule 3, 4, 5 and 6 under these rules shall not be***

***transferred to another autonomous college except in exceptional circumstance or on account of disciplinary action.”***

9. From the language employed in the Section it is manifest that these rules are applicable to them who are appointed under these rules. The applicant is already appointed in 1994 and thereafter 2002 and not under the rules of 2012. As such the provisions of the rule of 2012 cannot be applied in the applicant's case.

10. As against this, the Id. counsel for the applicant urged that the respondents have transferred one Asstt. Professor from Aurangabad to Amravati vide order dtd. 8/12/2015 which shows that such bar is not applicable. The Id. counsel for the applicant also relied on the observations made by Their Lordships in W.P. No. 4046/2012 wherein it is observed that the Govt. has enough powers and it can exercise and ensure the discipline and quality of education even after the autonomy is granted.

11. Having regard to this material on record, there cannot be any substance in the submission of the respondents. When the employees are working for years together in the naxalite affected/tribal areas neither they are transferred out of the said areas nor other employees are posted there which is discriminatory. In such circumstances, the guidelines or the provisions made in the G.R. assumes significance and cannot be ignored.

12. Consequently the O.A. is allowed. The respondents to consider the reasons in the representation and transfer the applicant in the general transfers of 2017 from Chandrapur according to law in the light of the provisions of the relevant Govt. Resolutions and considering the places of his preferences, if vacant, including at Amravati.

No order as to costs.

**(S.S. Hingne )**  
**Vice-Chairman.**

Skt.

The para 12 is modified vide order dtd.10/1/2017 in M.C.A. 3/2017. The modified order is on the next page.



**O.A. No. 607/2016**  
**Dated : 10.01.2017.**

**M.C.A. No.3/2017**

**ORDER –**

(12) Consequently, the O.A. is allowed.

(1) The respondents to transfer the applicant from Chandrapur

(a) at an earliest if vacancy is available as contended by applicant,

(b) If not, then he be transferred in the General transfers of 2017 and

(c) In any event the applicant be transferred before 31-5-2017, according to law in the light of the provisions of the relevant G.Rs. and reasons given by the applicant in the representation to the place of his preferences if vacant, including at Amravati.

(2) No order as to costs.

**(S.S. Hingne)**  
**Vice-Chairman.**