

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO.317 of 2017**

- 1) Raje S/o Laxminarayan Donode,  
Aged about 37 years, Occ. Service,  
Adarsh Nagar, Post : Lakhni, Tahsil Lakhni,  
District Bhandara.
- 2) Nishikant Bakaram Londase,  
Aged 37 years,  
C/o Narendra Rangari, Behind Dr. Shelke House,  
Shastri Ward, Gondia.
- 3) Revnath S/o Kashinath Marbhate,  
Aged 35 years,  
C/o Wamanrao Yerne, Civil Lines Colony,  
Arjuni Morgaon, Distt. Gondia.

**Applicants.**

**Versus**

- 1) State of Maharashtra,  
through its Secretary,  
Department of Home,  
Mantralaya, Mumbai-32.
- 2) Director General of Police,  
Maharashtra State, Bhagatsingh Marg,  
Mumbai-400 001.
- 3) Special Inspector General of Police,  
Gadchiroli Range, Sales Tax Office,  
Campus, near Administrative Building,  
Civil Lines, Nagpur-440 001.
- 4) Superintendent of Police, Gondia-441 601

**Respondents**

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**Shri S.K. & P.S. Verma, Advocates for the applicants.**

**Shri A.M. Ghogre, Id. P.O. for the respondents.**

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**WITH****ORIGINAL APPLICATION NO.362 of 2017**

- 1) Sandeep S/o Shankarrao Khadse,  
Aged about 35 years, Nayak Police Constable,  
under Superintendent of Police, Gondia Range,  
Police Headquarters, Gondia-441 601.
- 2) Mahendra S/o Ghanshyam Katre,  
Aged about 39 years, Nayak Police Constable,  
under Superintendent of Police, Gondia Range,  
Police Headquarters, Gondia-441 601.
- 3) Gajendra S/o Dayalsingh Jatpele,  
Aged about 36 years, Nayak Police Constable,  
under Superintendent of Police, Gondia Range,  
Police Headquarters, Gondia-441 601.
- 4) Vickki S/o Sadashi Karpe,  
Aged about 33 years, Nayak Police Constable,  
under Superintendent of Police, Gondia Range,  
Police Headquarters, Gondia-441 601.
- 5) Bharat S/o Hirchand Paradhi,  
Aged about 39 years, Nayak Police Constable,  
under Superintendent of Police, Gondia Range,  
Police Headquarters, Gondia-441 601.
- 6) Rajesh S/o Kawduji Donode,  
Aged about 37 years, Nayak Police Constable,  
under Superintendent of Police, Gondia Range,  
Police Headquarters, Gondia-441 601.
- 7) Sumitkumar S/o Parasram Rahangdale,  
Aged about 31 years, Police Constable,  
under Superintendent of Police, Gondia Range,  
Police Headquarters, Gondia-441 601.
- 8) Deepak S/o Kisanrao Kawale,  
Aged about 35 years, Nayak Police Constable,  
under Superintendent of Police, Gondia Range,  
Police Headquarters, Gondia-441 601.

- 9) Deleted.
- 10) Deleted.
- 11) Vijay S/o Ekadash Kotangale,  
Aged about 38 years, Nayak Police Constable,  
under Superintendent of Police, Gondia Range,  
Police Headquarters, Gondia-441 601.
- 12) Pradip S/o Ramdas Ingle,  
Aged about 31 years, Police Constable,  
under Superintendent of Police, Gondia Range,  
Police Headquarters, Gondia-441 601.
- 13) Shriram S/o Tukaram Pole,  
Aged about 33 years, Police Constable,  
under Superintendent of Police, Gondia Range,  
Police Headquarters, Gondia-441 601.

**Versus**

**Applicants.**

- 1) State of Maharashtra,  
through its Secretary,  
Department of Home,  
Mantralaya, Mumbai-32.
- 2) Director General of Police,  
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Kulaba, Mumbai-400 001.
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Gadchiroli Range, Sales Tax Office,  
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Civil Lines, Nagpur-440 001.
- 4) Superintendent of Police,  
Gondia-441 601.

**Respondents**

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**Shri S.K. & P.S. Verma, Advocates for the applicants.**

**Shri A.M. Ghogre, Id. P.O. for the respondents.**

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

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### **COMMON JUDGEMENT**

**(Delivered on this 12<sup>th</sup> day of September, 2017)**

Heard Shri S.K. Verma, Id .counsel for the applicants and Shri A.M. Ghogre, Id. P.O. for the respondents. The matters are heard and decided at the admission stage with the consent of the parties.

2. The applicants have challenged their order of transfer dated 8/4/2017 issued by the respondent no.4. The said order is in respect of Police Constabulary including the applicants. In all 122 personnel of Police Constabulary including the applicants have been transferred to various places of Gondia region in naxalite affected and sensitive areas. The said order is in violation of the provisions of the Maharashtra Police Act and the G.Rs. in respect of transfer policy vis-a-vis transfer of Police Constables.

3. According to the applicants, they have already served in the naxalite affected and sensitive areas. Some of the applicants have already served in such areas not only once but even twice and

thrice. The said order has been passed in order to favour some Officers.

4. The applicants have therefore prayed that the impugned order dated 8/4/2017 in respect of the applicants be quashed and set aside and the respondents be directed to continue the applicants at their respective postings in Gondia District till they complete five years of tenure as per the Section 22N (1) (b) of the Maharashtra Police Act.

5. The applicants have given particulars of their date of births and appointments and events regarding their transfers from time to time in para-4.2 in both the O.As. which are as under :-

<b>Particulars in O.A.No.317/2017 –</b>				
<b>Name</b>	<b>Date of Birth</b>	<b>Place of Postings/Period</b>	<b>Place of Postings/ Period</b>	<b>No. of tenure in naxal area.</b>
1.R.L.Donode	6/8/1980	Gondia-normal place 14/2/03 to 21/7/04 Arjuni-Mor-normal place 28/10/07 to 5/7/14	Bonde-naxalite area 21/7/04 to 28/10/07 Keshori-naxalite area 5/7/14 to May 17 A.O.P. Bonde May 17 & onwards	First.  Second  Third
2. N.B.Londase	8/3/80	Gondia-normal place 14/2/03 to 15/7/04  Gondia-normal place 27/6/08 to 14/5/17	Devari-naxalite area 15/7/04 to 2/1/06 Bonde-naxalite area 2/1/06 to 27/6/08 Bonde-naxalite area May 17 & onwards Vide impugned Transfer order at Sl.29	First  Second  Third

3. RK Marbhate	8/1/82	Gondia-normal place 14/12/08 to 8/6/10	AOP Ganutala-naxal area 9/6/10 to 18/11/10 CCT Chichgadh-naxal area second 19/11/10 to 23/10/16	First
		Arjuni-Normal place 24/10/16 to 23/4/17	AOP Bharnoli-naxal area 24/4/17 onwards Vide impugned Transfer order at SI.8	Second
				Third

**Particulars in O.A.No.362/2017 –**

<b>Name</b>	<b>Date of Birth</b>	<b>Place of Postings/Period</b>	<b>Whether Normal/Naxal Affected/Sensitive areas</b>
1. S.S. Khadse	5/1/82	Gondia 14/2/03 to 2004	Normal
		Devri 2004-2006	Naxal (1 <sup>st</sup> )
		Nagpur Spl. Action Group 2006-2010	Naxal (2 <sup>nd</sup> )
		Gondia 2010-2011	Normal
		Rawanwadi 2011-2013	Normal
		Devri 2013-2017	Naxal (3 <sup>rd</sup> )
		AOP Ganutola 8/4/17	Naxal (4 <sup>th</sup> )
As per impugned transfer order at sl.74			
2. M.G. Katre	17/8/77	Gondia 25/7/2006 to 1/1/2008	Normal.
		AOP Bijepur Jan.2008 to Dec.2009	Naxal (1 <sup>st</sup> )
		Gondia Dec.09 to May 15	Normal
		Devri May 15 to April 17	Naxal (2 <sup>nd</sup> )
		AOP Dhabe Paoni 8/4/17	Naxal (3 <sup>rd</sup> )
As per impugned transfer order at sl.114			

3. G.D. Jatpele	5/8/81	Gondia 1/1/05 to 31/3/06  AOP Magardoh Nov.07 to Jun.10 Dawaniwada Jun.10 to May 15  Amgaon May 15 to April 17  AOP Ganutola 8/4/17  As per impugned transfer order at sl.89	Normal  Naxal (1 <sup>st</sup> ) Naxal (2 <sup>nd</sup> )  Normal  Naxal (3 <sup>rd</sup> )
4.V.S. Karpe	24/10/83	Gondia 25/7/06 to 10/1/08  Darekasa 11/1/08 to 16/5/10  Gondia 17/5/10 to 25/6/12  Navegaonbandh 26/6/12 to Apr.17 AOP Bonde 8/4/2017  As per impugned transfer order at sl.35	Normal  Naxal (1 <sup>st</sup> )  Normal  Naxal (2 <sup>nd</sup> ) Naxal (3 <sup>rd</sup> )
5. B.H. Pardhi	25/6/77	Gondia 25/7/06 to 9/6/09  AOP Darekasa 10/6/09 to 23/7/11 P.S. Dawaniwada 24/7/11 to 12/12/16 Gangazari 13/12/16 to 8/4/17  AOP Dhabepaoni 8/4/17  As per impugned transfer order at sl.119	Normal  Naxal (1 <sup>st</sup> )  Normal  Normal  Naxal (2 <sup>nd</sup> )
6. R.K. Donode	1/3/08	Gondia 12/10/01 to Aug.03  Amgaon Sep.06 to May.10  Dongargaon May.10 to Jul.13  Amgaon Jul.13 to May.15  Tirora May.15 to Apr.17  AOP Darekasa 8/4/17  As per impugned transfer order at sl.90	Normal  Normal  Naxal (1 <sup>st</sup> )  Normal  Normal  Naxal (2 <sup>nd</sup> )

7.S.P.Rahangdale	9/12/86	Gondia 28/9/07 to March 10 Bharnauli Apr.10 to Jun.12 Dawaniwada Jul.12 to Oct.13 Spl.Action Group, Nagpur Apr.13 to Aug.13 Dawaniwada Nov.13 to Apr.17 AOP Bharnoli Apr.17 As per impugned transfer order at sl.7.	Normal Naxal (1 <sup>st</sup> ) Normal Naxal (2 <sup>nd</sup> ) Normal Naxal (3 <sup>rd</sup> )
8. D.K. Kawale	28/1/82	Gondia 14/6/04 to 12/11/06 AOP Ganutola 13/11/06 to 11/7/09 Keshori 12/7/09 to 8/5/15 Tirora 9/5/15 to April 17 AOP Ganutola Apr.17 As per impugned transfer order at sl.86.	Normal Naxal (1 <sup>st</sup> ) Naxal (2 <sup>nd</sup> ) Normal Naxal (3 <sup>rd</sup> )
9.D.M. Neware	8/10/77	Gondia 14/2/03 to 30/7/04 Devri 31/7/04 to 11/1/06 Magardoh 12/1/06 to 17/7/08 Gondia 18/7/08 to 17/11/15 Devri 18/11/15 to Apr.17 AOP Dhabepavni Apr.17 As per impugned transfer order at sl.108	Normal Naxal (1 <sup>st</sup> ) Naxal (2 <sup>nd</sup> ) Normal Naxal (3 <sup>rd</sup> ) Naxal (4 <sup>th</sup> )
10. A.B. Mendhe	25/4/82	Gondia 29/9/07 to Mar.10 AOP Bijepar Apr.10 to Aug.12 Gangazari Aug.12 to Apr.17 AOP Ganutola Apr.17 As per impugned transfer order at sl.	Normal Naxal (1 <sup>st</sup> ) Normal Naxal (2 <sup>nd</sup> )



11. V.E. Kotangale	3/5/79	Gondia 25/7/06 to 18/2/08 Keshori 19/2/08 to 2/6/14 AOP Bharnoli 3/6/14 to 11/10/16 Arjuni Morgaon 12/10/16 to Apr.17 AOP Dhabepaoni Apr.17 As per impugned transfer order at sl.112.	Normal Naxal (1 <sup>st</sup> ) Naxal (2 <sup>nd</sup> ) Normal Naxal (3 <sup>rd</sup> )
12. P.R. Ingle	22/2/86	Gondia 19/6/12 to 19/12/14 AOP Piparia 20/12/14 to 29/4/15 Salekasa 30/4/15 to 12/7/16 Spl. Action Gr. Nagpur 13/7/16 to 15/8/16 Gondia 16/8/16 to 5/9/16 Amgaon 6/9/16 to 7/4/17 AOP Magardoh Apr.17 As per impugned transfer order at sl.19	Normal Naxal (1 <sup>st</sup> ) Naxal (2 <sup>nd</sup> ) Naxal (3 <sup>rd</sup> ) Normal Normal Naxal (4 <sup>th</sup> )
13. S.T. Pole	4/6/84	Gondia 29/9/07 to 19/3/10 C-60 Devri 20/3/10 to 14/5/15 P.S. Devri 15/5/15 to Apr.17 AOP Magardoh Apr.17 As per impugned transfer order at sl.18.	Normal Naxal (1 <sup>st</sup> ) Naxal (2 <sup>nd</sup> ) Naxal (3 <sup>rd</sup> )

6. Perusal of the Chart, as aforesaid, makes it crystal clear that some of the applicants have been re-posted in naxalite affected and sensitive areas even though they have completed their tenure in between 5 to 9 years.

7. The respondent no.4 tried to justify the order. According to the respondent no.4, there was no malafide intention on the part of respondents while issuing transfer order dated 8/4/2017 and the same

has been passed looking to the administrative exigencies and in order to maintain law and order in Gondia District. It is further stated that in Gondia district near about 2300 Police Personnel are working, out of which more than 50% are not fit to be sent and posted in sensitive areas as they are over the age of 40 years and some others are lady Police Constables. There are very less number of Police Personnel below the age of 40 years and therefore it was necessary to rotate the postings in the sensitive and naxalite affected areas like Armed Out postings. For anti-naxal operations near about 500 Police Personal below the age of 40 years who are fit are required and therefore from the available strength the Police Personnel who had earlier worked in the naxalite affected area and transferred in a non-naxal affected area, after sometime in rotation are required to be sent again to naxalite affected area.

8. The respondent no.4 further submits that the order has been passed in the interest of administration and the Establishment Board as per Rule 22J (1) has considered all the aspects regarding re-construction of C-60 Squad and inducting the Police Personnel in the said Squad. The present applicants being below the age of 40 years and having experience and knowledge of the Armed Out Posts have been transferred.

9. The applicants have placed reliance on the Judgment delivered by this Tribunal in O.A. 250/2017 in case of **Omeshwar S/o Yeshwant Meshram & Ors. Vs. State of Maharashtra & Ors.** delivered on 15/5/2017. It is the same order vide which the present applicants have been transferred and which was challenged in the O.A.250/2017. The learned counsel for the applicants submits that the cases of the applicants in the present O.As. are identical and such are covered by the judgment in O.A.250/2017. The Id. P.O. also admits this fact. The impugned order was quashed in O.A.250/2017 so far as the applicants in that case are concerned. In fact this Tribunal has also directed the respondent authorities to form a concrete policy and the said observations in para-17 in the said order are as under :-

*“ (17) In my opinion had it been a fact that the respondents are in need of fresh blood below the age of 40 years to resolve the law and order situation in naxalite affected and sensitive area, they shall prepare the list of the Police Personnel who are below the age of 40 years and who have not completed their tenure in such area. They shall also call consent of the persons who are willing to work in the naxalite affected and sensitive area beyond tenure of two years or for further fresh tenure in such area and thereafter the Personnel shall be picked up from*

*such list as per chronology. The Government may form a concrete policy as regards use of experience of the personnel who had already worked in such naxalite affected and sensitive area. The roster in this regard shall be maintained. The Government cannot use pick and choose policy.”*

10. In view of the fact that the cases of the present applicants are analogous to those applicants in O.A.250/2017. I am satisfied that the respective order of transfers in respect of applicants in both these O.As. is required to be quashed and set aside. Hence, the following order :-

### **ORDER**

The O.As are partly allowed. The impugned order dated 8/4/2017 issued by respondent no.4 whereby the present applicants are transferred from the respective current postings to various postings at naxalite affected and sensitive area within Gondia Region on their respective posts of Nayak Police Constable is held illegal and in contravention of provisions of the Maharashtra Police Act and the G.Rs. in this regard and therefore the said order is quashed and set aside in respect of present applicants. The respondents are directed to allow the applicants to continue to work at their respective posts in Gondia District prior to their transfers vide impugned order till they

complete five years of their respective tenure or till administrative exigencies arises to transfer them. No order as to costs.

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

dnk.