

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**ORIGINAL APPLICATION NO.136 OF 2018  
(Subject : Transfer)**

**DISTRICT : THANE**

Shri Kiran Vishnu Patil, )  
Assistant Commissioner of Police, )  
Navi Mumbai. )  
R/o. Sarovar Darshan, D-1402, Chandanwadi, )  
Thane (W) )

**....Applicant.**

**Versus**

1. The Commissioner of Police, )  
Navi Mumbai. )  
Office at Navi Mumbai Police Commissionarate, )  
C.B.D. Belapur, Navi Mumbai 400 614. )
2. Shri Amol Zende, )  
Transferred as Assistant Commissioner of Police, )  
Control Room, Navi Mumbai transferred to Turbhe )  
Division, Navi Mumbai. )
3. The State of Maharashtra, )  
Through Principal Secretary, )  
Home Department, )  
Having office at Mantralaya, )  
Mumbai 400 032. )

**.....Respondents.**

Shri A.V. Bandiwadekar, the learned Advocate for the Applicant.

Ms. S.P. Manchekar, the learned Chief Presenting Officer for the Respondents No.1 & 3.

Shri D.B. Khaire, the learned Special Counsel for Respondent No.2.

CORAM : JUSTICE SHRI A.H. JOSHI, CHAIRMAN

RESERVED ON : 31.10.2018.

PRONOUNCED ON : 06.11.2018

**J U D G M E N T**

1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant, Ms. S.P. Manchekar, the learned Chief Presenting Officer for the Respondents No.1 & 3 and Shri D.B. Khaire, the learned Special Counsel for Respondent No.2.

2. Heard both sides. Perused the record annexed to Original Application. Applicant is serving as Assistant Commissioner of Police / Deputy Superintendent of Police.

3. Applicant was transferred by order dated 03.01.2017 (copy whereof is at page 40, Exhibit-D of the paper book of O.A.) by the Commissioner of Police, Navi Mumbai to the post of Assistant Commissioner of Police, Special Branch, Navi Mumbai.

4. During the tenure of said posting at Assistant Commissioner of Police, Special Branch, Navi Mumbai, Applicant was transferred by impugned order dated 25.01.2018 as Assistant Commissioner of Police, Control Room, Navi Mumbai. Applicant has challenged the said order on various grounds and in particular the ground that by virtue of Section 22[N][1] of the Maharashtra Police Act 2016, the authority competent to transfer Deputy Superintendent of Police / Assistant Commissioner of Police is the Home Minister, and Police Establishment Board for that purpose is Police Establishment Board-1 as prescribed in Section 22[N][2] of the said Act.

5. This O.A. was heard from time to time. During pendency of O.A. Government has transferred the applicant as Assistant Commissioner of Police in the office of Commissioner of Police, Brihan Mumbai by order dated 22.06.2018.

6. Applicant wanted to challenge the said transfer order by amending present O.A., for which Applicant filed M.A.No.461 of 2018. This Tribunal heard the M.A. and passed order to the effect that due to the transfer order dated 20.06.2018, fresh cause of action has accrued to the Applicant and it being independent cause of action and an independent subject matter, separate O.A. must be filed if at all applicant desired, and M.A. for amendment for escalating the cause of action in present O.A. was not permissible and rejected the M.A..

7. Today after the hearing was completed learned Advocate has stated in regards to subsequent transfer i.e. transfer order dated 20.06.2018 as follows :-

Applicant has chosen to prefer representation, and has represented before the Government for cancellation of Transfer order dated 22.06.2018, but has obeyed the transfer order.

8. Besides oral arguments Applicant has also placed on record written arguments.

9. This Tribunal is of the view that present O.A. could have been pursued had the Applicant challenged the transfer order in this Tribunal and eventually the transfer order, would have been stayed or ultimately had transfer order dated 22.06.2018 been set aside.

10. Once the Applicant has obeyed the order may be endured and complied it, and has chosen the course of representing before the Government but the Government has not stayed / modified the order dated 22.06.2018, the cause of action for presuming the present O.A. has ceased to exist.

11. In view of subsequent development, even if present O.A. could succeed, applicant cannot be restored the post of Assistant Commissioner of Police, Special Branch, Navi Mumbai by whatsoever permutations and combinations. Whenever any particular final relief cannot be granted, issues of whatever important academic, interest need not and ought not be decided, and this Tribunal declines to undertake / decline to decide those.

12. Hence Original Application is dismissed with costs.

**Sd/-**

**(A.H. Joshi, J.)  
Chairman**

prk