

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.19 OF 2017**

**DISTRICT : SANGLI**

Shri Pratap Dhondiram Poman. )  
Working as Senior Police Inspector, )  
R/at C/o. Shri Hambirrao Deshmukh, )  
Shriram Colony, Opp. Police Station, )  
Shirala, District : Sangli. )...**Applicant**

**Versus**

1. The State of Maharashtra. )  
Through Chief Secretary, )  
Mantralaya, Mumbai - 400 032. )
2. The Additional Chief Secretary. )  
Home Department, Manatralaya, )  
Mumbai 400 032. )
3. The Superintendent of Police. )  
Sangli District, Vishrambaug, )  
Sangli. )
4. Shri S.G. Ghongade. )  
Assistant Police Inspector, )  
Vita Police Station, Sangli. )...**Respondents**

**Mrs. Punam Mahajan, Advocate for Applicant.**

**Mrs. K.S. Gaikwad, Presenting Officer for Resp.Nos. 1 to 3.**

**Mr. M.D. Lonkar, learned Advocate for Respondent No.4.**

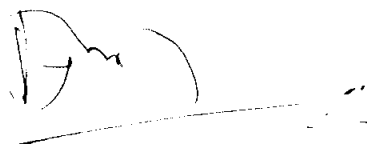


**P.C.** : **R.B. MALIK (MEMBER-JUDICIAL)**

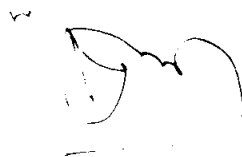
**DATE** : **18.08.2017**

### **JUDGMENT**

1. This Original Application (OA) is brought by a Senior Police Inspector calling into question his transfer from the post of Senior Police Inspector, In-charge of Shirala Police Station to Intelligence Bureau in the Sangli District itself and the 4<sup>th</sup> Respondent is his successor in Police Station (PS) Shirala.
2. The Applicant came to be posted at PS Shirala by the order dated 30.4.2016 from PS Ashta. He, however, could take charge only on 19.7.2016. The Respondent No.1 is the State through Chief Secretary, the Respondent No.2 is the Additional Chief Secretary (Home Department), the Respondent No.3 is the S.P, Sangli District and as already noted above, the 4<sup>th</sup> Respondent is the successor of the Applicant and Assistant Police Inspector, PS Vita, Sangli.
3. A meeting of the Police Establishment Board (PEB) took place on 5.1.2017 chaired by S.P, Sangli and the Additional S.P, Sangli and Additional S.P. and



representative of Backward Class were present as members. The said meeting apparently considered the issue only of the Applicant. As on that day, the Applicant had completed only about six months and even lesser at PS Shirala, and therefore, in the manner of speaking, this was a case of mid-tenure and mid-term transfer governed by the provisions of the Maharashtra Police Act, 1951 as amended in April, 2015. The minutes of the said meeting are at Exh. 'R-13" (Page 57 of the PB). There are two broad aspects and this is significant which need to be noted. In the first place, there were allegations that the Applicant incurred several letters from the S.P, some of them being Demi-Official Letters pointing out that the crime situation in the area under his control was not under check and despite several directions, he had not been able to show any improvement. The second limb was that the Hon'ble Chief Minister on 31.12.2016 visited a few places including Shirala and the Applicant was forewarned that he would have to take utmost care to ensure the safety and security of the high dignitaries, for which wireless messages were sent. There is a certain organization which is annoyed by the judicial directions in the matter of injunctions of performing the worship (pooja) of live snakes. They wanted to hold some kind of a black-flag demonstration to the Hon'ble Chief Minister, but over-all, the Applicant did not



show the kind of agility and care and showed negligence in discharge of his duties towards very sensitive matters like that. At this stage, it also needs to be mentioned that the wireless message in fact came to be sent not only to PS Shirala but to various Police Organizations at Pune, Mumbai, Kolhapur and Sangli like POLCOM Pune, Additional C.P. (PNS) Mumbai, Additional C.P. (MT), Mumbai, DISPOL, Sangli and Kolhapur, DCSID, Pune/ADC SID, Kolhapur/ACSID, Sangli, Kolhapur, PIBGDS, Sangli, Kolhapur, PISPU, Pune/PIMT Pune, Kolhapur, DISPU, Mumbai/PIMT, Mumbai. Various steps were enlisted in regard to the then impending visit of the Hon'ble Chief Minister and as to what precautions were required to be taken. A wireless message was sent, a copy of which is at Exh. 'R-15 (Page 63 of the Paper Book (PB)) wherein it was mentioned *inter-alia* that, some demonstration was under contemplation of some body of people at Shirala, and therefore, the concerned Police Personnel should take utmost care at the time of the visit of the Hon'ble Chief Minister. At Exh. 'R-16' (Page 64 of the PB), there is a DO letter from the S.P. to the Applicant dated 30.12.2016 wherein the Applicant was directed to take utmost precaution in the matter of possible demonstration by a snake organization above referred to, and directions were given to take into protective custody,

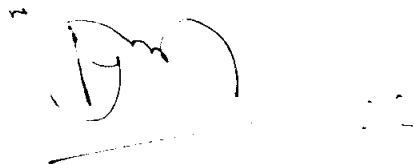


the potential trouble mongerers and he was directed to ensure that, no demonstration took place enroute of the Hon'ble Chief Minister. The Applicant, however, found wanting.

4. In the above set of circumstances, the PEB decided that a case was made out for effecting transfer of the Applicant which was eventually done by the impugned order, a copy of which is at Exh. 'A-5' (Page 19 of the PB), the result whereof has already been mentioned above. The cause of the transfer was shown as "administrative exigency". Aggrieved by this order of transfer, the Applicant is up before me by way of this OA.

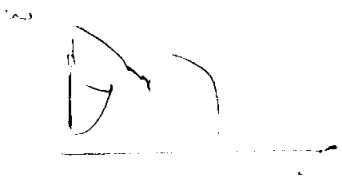
5. On 13.1.2017, the Hon'ble Vice-Chairman before whom this matter was placed for consideration of interim order was pleased to decline the grant thereof, and therefore, subject to the outcome hereof, the impugned orders must have been implemented.

6. I have perused the record and proceedings and heard Mrs. Punam Mahajan, the learned Advocate for the Applicant, Mrs. K.S. Gaikwad, the learned Presenting Officer (PO) for the Respondents 1 to 3 and Mr. M.L. Lonkar, the learned Advocate for Respondent No.4.



7. Be it noted right at the outset that, to begin with the issue of competence of the PEB to ultimately effect the transfer in the capacity as competent authority was disputed by the Applicant which met with rebuttal by the other side. However, in the arguments in Rejoinder, Mrs. Mahajan, the learned Advocate for the Applicant told me that, she had instructions from the Applicant not to press that aspect of the matter and if I correctly understood her, the object was to ensure that the delay was not caused in view of difficulty in the way of getting a Division Bench constituted for administrative reasons which are obvious and well-known. It is, therefore, quite clear that, now it is not necessary for me to enter any finding on that aspect of the matter and I may proceed on the assumption that, for the purposes hereof, the Applicant accepts the position that PEB was the competent authority and he gave up the plea that the competent authority was the Government. Therefore, a large number of authorities cited on either sides in this behalf will not now be necessary to be considered and this issue itself will not be necessary to be determined. With this, I proceed further.

8. In so far as the facts set out at the outset are concerned, they are not much disputed as facts. This matter is governed basically by the provisions of post 2015,



Section 22 N of the Police Act. In Para 6 of the OA, this Section has been fully reproduced. It is absolutely clear that the Applicant has been transferred by the impugned order before completing normal tenure which in his case could be two years at a Police Station, four years in the District and eight years in the range. Now, for the purposes hereof, I will have to proceed on the basis that for the group of Officers which the Applicant belongs to, the competent authority is PEB at District level. There is a proviso to Section 22N (1)(e) which reads as follows :

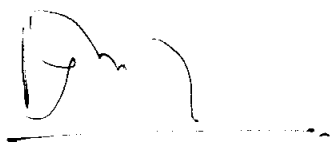
“Provided that, the State Government may transfer any Police Personnel prior to the completion of his normal tenure, if,-

- (a) disciplinary proceedings are instituted or contemplated against the Police Personnel; or
- (b) the Police Personnel is convicted by a court of law; or
- (c) there are allegations of corruption against the Police Personnel; or
- (d) the Police Personnel is otherwise incapacitated from discharging his responsibility; or
- (e) the Police Personnel is guilty of dereliction of duty.



(2) In addition to the grounds mentioned in sub-section (1), in exceptional cases, in public interest and on account of administrative exigencies, the Competent Authority shall make mid-term transfer of any Police Personnel of the Police Force.”

9. It is quite clear that, in so far as the Applicant is concerned on the basis of the record such as it is, no disciplinary proceeding has been instituted or contemplated against him. He has not been convicted by a Court of law. There are no allegations of corruption against him. He has not been otherwise incapacitated from discharging his responsibility. Now whether he is guilty of dereliction of duty or not, is a point which needs to be discussed to a certain extent. Then, as per the second part of the proviso, there are grounds in addition to the aforementioned grounds which can be invoked in exceptional cases, in public interest and on account of administrative exigencies by the competent authority to make mid-term transfer of any Police Personnel of the Police Force. It is quite clear, therefore, that in order to sustain an order of transfer which is mid-term, the authority should be able to demonstrate that it was an exceptional case and that the elements of public interest





and administrative exigencies all converged together to produce a contingency to effect a mid-term transfer.

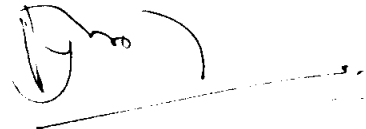
10. There is a very important Circular in Marathi dated 7.10.2016 issued by the Special Director General of Police (Establishment), a copy of which is at Annexure 'A-4' (Page 17 of the PB).

### “परिपत्रक

विषय :- पोलीस अधिका-यांची मुदतपूर्व बदली करण्याबाबतची मार्गदर्शक सुचना.

सर्व पोलीस घटक प्रमुखांना सुचित करण्यात येते की, पोलीस आस्थापना मंडळ क्र.२ कडे मुदतपूर्व बदलीचे प्रस्ताव पाठवितांना खालील बाबींचे पालन करावे.

०१. ज्या पोलीस अधिका-यांची बदली करावयाची आहे, त्यांच्या कसुरीबाबत, गैरकृत्याबाबत अथवा बेजबाबदार वर्तणूकीबाबत, वरिष्ठ अधिका-यांकडून प्राथमिक चौकशी करून घ्यावी. सदरील चौकशी संक्षिप्त स्वरूपाची असावी. त्या चौकशीमध्ये कसुरदार अधिका-याचा जबाब नोंदविणे अत्यंत आवश्यक आहे. (नैसर्गिक न्यायदानाच्या तत्वानुसार त्यांना योग्य ती संधी देणे आवश्यक असल्याने)
०२. चौकशीच्या निष्कर्षामध्ये कसुरदार अधिका-याचा दोष सकृतदर्शनी सिध्द होणे आवश्यक आहे, निर्विवादपणे सिध्द होत नसल्यास, तशी संशयास्पद वर्तणूक वाटते काय ? ते स्पष्टपणे नमुद असणे आवश्यक आहे.
०३. चौकशी निष्कर्षामध्ये अधिका-यांची त्या पदावर/जिल्ह्यात/परिक्षेत्रात/आयुक्तालयात कार्यरत राहिल्यास प्रशासकीय गैरसोय कशी होणार आहे, नागरिकांना कसा त्रास होणार आहे इ. स्पष्टपणे नमुद करण्यात यावे.



०४. कसुरदार अधिका-यांना त्यांचे कर्तव्य बजाविण्यात मागील १ ते २ वर्षात दिलेले मेमो, गुन्ह्या संदर्भात घेतलेले चेक्स, मागविण्यात आलेले खुलासे/स्पष्टीकरण, स्टेशनरी डायरी नोंद, अचानक भेटीची टिप्पणीमधील प्रतिकूल शेरे इ. जमा करून ते एकत्रितपणे कसुरी अहवालाबाबत पाठविणे आवश्यक राहिल. कसुरदार अधिका-याविरुद्ध जनतेकडून/लोकप्रतिनिधीकडून प्राप्त झालेली तक्रार व त्या अनुषंगाने चौकशी करून त्याचा समावेश कसुरी अहवालात असावा.

०५. ज्या अधिका-यांची वर्तणूक योग्य वाटत नाही त्यांना वेळोवेळी मेमो देउन त्यांची एकत्रितरित्या साठवणूक करून भविष्यातील त्यांच्याविरुद्ध चौकशीनुसार त्याचा वापर करावा. कसुरदार अधिका-याचे गोपनीय अभिलेखावर प्रतिकूल शेरे असतील, तर त्याबाबतचा उल्लेख करावा. मुदतपूर्व बदली करतांना 'जनहितार्थ' व प्रशासकीय सोयीचे म्हणजे 'In public interest and for administration exigency' या बाबीचा विचार करण्यात येतो. म्हणून कसुरदार अधिका-यांना जिल्हयात/आयुक्तालयात त्या पदावर कार्यरत ठेवणे जनहितार्थ कसे योग्य नाही, हे स्पष्टपणे कसुरी अहवालात नमुद असणे आवश्यक आहे. त्याशिवाय कसुरी अहवाल सादर करू नये. कसुरदार अधिकारी त्यांच्या बदलीनंतर मा.महाराष्ट्र प्रशासकीय न्यायाधिकरणासमक्ष दावा दाखल करू शकतो. म्हणून त्याची पुर्वतयारी म्हणून परिपूर्ण कसुरी सिध्द करून मगच तशी बदली करणे उचित होईल.

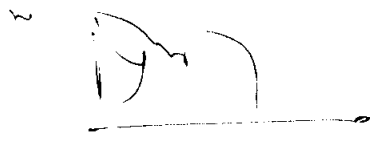
०६. वरील सर्व बाबींची तंतोतंत पुर्तता करून त्याप्रमाणे अहवाल या कार्यालयास पाठविणे आवश्यक आहे.

०७. सदरची प्रक्रिया जिल्हयांतर्गत, परिक्षेत्रांतर्गत किंवा पोलीस आयुक्तालयांतर्गत बदली करतांना सुध्दा अंमलात आणावी की, जेणेकरून संबंधित अधिका-यांची बदली ही न्याय्य कारणाकरिता करण्यात आल्याबाबत, प्रकरणात मा. महाराष्ट्र प्रशासकीय न्यायाधिकरणासमक्ष योग्यरित्या बाजु मांडता/हाताळता येणे शक्य होईल.

सही,

(राजकुमार व्हटकर)


विशेष पोलीस महानिरीक्षक (आस्थापना)  
पोलीस महासंचालक, म.रा.मुंबई यांचे  
करिता."



The above Circular is only for guidance and will not prevail over the enactment or statutory rules.

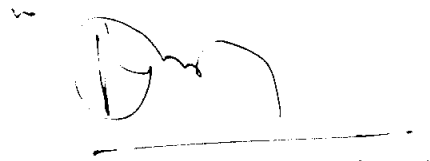
11. The requirement of law, therefore, is that a Police Officer was to be transferred mid-term in so far as his application of present facts is concerned, the above referred elements must be found present. The issue is as to whether on a mere say so or ipse-dexie of any Officer howsoever high or any competent authority, a judicial forum before whom the matter ultimately lands can be held sufficient or there should be some material to justify the same. Now, it needs to be recorded that, in case of the Applicant, the competent authority has invoked probably the dereliction of duty and public interest aspects of the matter.

12. I shall presently discuss those aspects to the extent necessary, but before I did that, I think, it will be most appropriate to delineate for myself the ambit of my jurisdiction in such matters. This aspect of the matter was very strongly urged by Mr. Lonkar, the learned Advocate for the Respondent No.4. It is not in dispute at all that, this Tribunal exercises the power of judicial review of administrative action and by and large, if the authorities have arrived at a certain conclusion on the facts and the



incriminating facts are there to whatever extent, produce a result whereby their decision can be in the manner of speaking, one possible view, then the Tribunal will not just for the asking rush in to substitute its own view for that of the view of the authorities.

13. This is the gist of the principles that can be culled out of several Judgments of the Hon'ble Constitutional Courts. However, at the same time, it also needs to be clearly understood that the Tribunal even in its circumscribed jurisdiction has to act, if the impugned orders suffered from the vices of malafides or the order being such as to shock the conscience of any reasonable person. The circumscription of jurisdiction cannot be so construed as to degenerate the power of the Tribunal into the total absence of jurisdiction. In a recently rendered Judgment of the Hon'ble Bombay High Court in **Writ Petition No.14200/2016 (The State of Maharashtra and one another Vs. Shri Siddharth Kasbe, dated 20<sup>th</sup> January, 2017**, it was held that, in case of the default reports which are here also a plenty or they are touted as by the Respondents, the mandate of the Hon'ble High Court is that the subjective satisfaction arrived by the PEB and transferring authority, need not be probed into in details and reasons for arrival at the conclusion, need not



be a matter of judicial scrutiny. It must, therefore, follow that if there is material enough to reach a particular point of view, then just for the asking, the Tribunal would not interfere. If I correctly understood Mr. Lonkar, the learned Advocate for the Respondent No.4, his submission was, if there was an objective material to form a subjective satisfaction by the authorities, then the judicial forum will be extremely slow in interfering. But I think, even he would have to agree that, "if" is a very important "if".

14. I may now turn to the crucial fact component of the matter. I have already mentioned at the outset that, there are two broad sets of the factual aspects. The S.P, Sangli did communicate with the Applicant from time to time and brought to his notice generally so speaking the inadequacies. At this stage itself, however, it will be appropriate to note that, in the amended Para 6.15.12-B, the following plea is raised.

**"6.15.12-B)** The impugned order is also malafide as it is issued for some extraneous reasons best known to the Respondents, under the pretext of default. The Petitioner is arbitrarily singled out and transferred on the ground that memo's were issued to the




Petitioner. Similar memo's were issued to most of the Police Inspector who are in-charge of Police Stations in Sangli District. It will also be pertinent to note that the illegal activities within the jurisdiction of Shirala Police Station is among the lowest. This fact is evident from the chart submitted by the reader Branch of S.P. Office for PowerPoint presentation in crime meeting for the Sangli District, which was attended by even Senior Officers."

This plea has been met with in Para 4 of the Affidavit-in-reply filed by Mr. Ravindra G. Dongare, Police Inspector on 28.2.2017. The said Para reads as follows :

"With reference to amended para 6.15.12-B, I admit the contents therein."

The said contents having been admitted, in my opinion, as far as this limb of the case of the Respondents is concerned, it loses almost the entire sting. Mr. Lonkar, the learned Advocate for the Respondent No.4 pointed out that, having received from his S.P, the various communications if they were adverse to him, the Applicant was in duty bound and on the principle of prudent person also, he



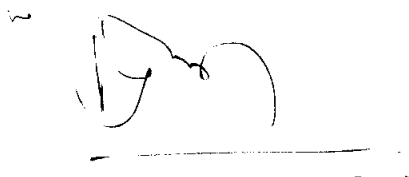
should have immediately retorted with a reply. He has not done that, and therefore, now his case to the contrary cannot be accepted. I shall have an occasion presently to read some of the letters in this first limb but in view of the manner in which this all important plea has been met with, in my opinion, it becomes very clear that Mr. Lonkar's argument in so far as the first limb is concerned is more theoretical than real. No doubt, in view of the factual peculiarity, the second limb pertaining to the visit of the Hon'ble Chief Minister may have to be approached differently, but as far as this particular aspect of the matter is concerned, I do not think, Mr. Lonkar could successfully assail the Applicant in that behalf. I may now turn to the said communications from the S.P. to the Applicant which are from Pages 29 to 56 of the PB (Exh. 'R1 to R 12'. The first Exhibit pertains to the period of time when the Applicant was posted at Ashta. It is advisory in nature and in any case, the Applicant could not have been visited with adversity for whatever he may or may not have done in Ashta when he had already joined at Shirala. The 2<sup>nd</sup> and 3<sup>rd</sup> communications are also exactly like the first one and they are also advisory in nature. The 4<sup>th</sup> Condition is dated 10.8.2016. That was a time when he had already joined at Shirala. The next one is dated 30.8.2016. There may be in passing some critical



references, but they are advisory in nature and one must remember that, there is constructive admission that such communications were sent to almost all the Officers concerned, in which connection, a reference to the relevant Paragraph of the OA has already been made above.

15. A communication of 10<sup>th</sup> / 19<sup>th</sup> September, 2016 opens with the laudatory reference that there was check on the crimes within the Police Station concerned. Again, in the 2<sup>nd</sup> Paragraph of crime detection, there is a satisfactory remark while about theft, etc., there is unsatisfactory remark about the illegal transactions and the Applicant has been assailed. Further, there is again advice given to the Applicant, and therefore, this particular communication is a blend of good, bad and advice. It is not entirely bad.

16. The next communication is of 13.9.2016 which pertains to one particular incident of illegal gambling. He was asked to show cause as to why in that connection, complaint should not be made to the higher-up. A communication of 5.10.2016 also mentions the fact that ever since, the SP took over, he had been insisting on the need to streamline the administration and check and do away with the illegal activities of the criminals. One

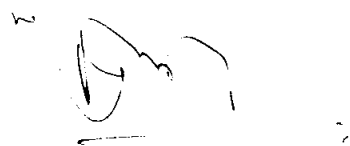
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particular instance has been quoted and then he is warned that, unless he showed improvement, adverse entries would be taken in his ACRs.

17. The next communication of 14.10.2016 is more or less one particular communication in which the disposition of the SP was mixed in so far as Applicant's performance was concerned. Same was the state of affairs about 11.11.2016. In a communication of 7.12.2016, one incident in which an illegal gambling was tackled with has been critically referred to. The last one of 7.12.2016 is substantially the same except for the change of date.

18. It is no doubt true that the SP has got the powers to make sure that, his subordinates holding critical posts do not indulge in slack supervision, but then this aspect of the matter is required to be considered in the context of the fact as to whether the Applicant could be singled out all by himself for such instances. The Police Personnel discharge onerous responsibilities. The superiors have got powers to keep them alert and on leach lest, they might slip into indolence. That should not happen. However, if it appears that, after the incidents took place, a particular set of communications which were by no means peculiar to the Applicant but were given to others as well, then in such



circumstances, whether or not, the action impugned would strictly fall within the traditional notion of malafides but it would still fall within the ambit of legal definition thereof.

19. My attention was invited by both the parties to malice in fact and malice in law in the context of malafides. Mr. Lonkar contended that, but for the general references, no specific instances have been set out by the Applicant to support his case of malafides. He, in this connection, relied upon **M. Sankaranarayanan, IAS Vs. State of Karnataka and others : (1993) 1 SCC 54.** It was held by Their Lordships that, in the matter of malafides, first of all there should be a foundation for such a plea and then such a plea should be made good. Mr. Lonkar then relied upon **Rajendra Roy Vs. Union of India : 1993 SCC (L & S) 138** wherein also, the issue of malafides in the context of the administrative law came to be dealt with.

20. Mrs. Mahajan relied upon **Sanmesh Tiwari Vs. Union of India & Ors. : (2009) 2 SCC 592.** It was held by Their Lordships that, normally in the administrative law, the transfer is an incidence of service and except the cases where malafides are proved, they should not be interfered with. Malafides are of two types, malice in fact and malice in law. If the order was based on any factor which was



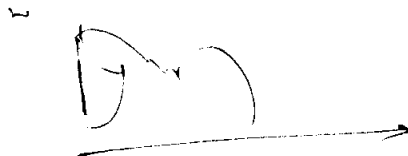
irrelevant, then it would be hit by the Rule against malafides. Mrs. Mahajan also relied upon **State of Maharashtra and others Vs. Dr. (Ms.) Padmashri S. Bainade & Ors. : 2015 (2) MLJ 679 (DB)** which was a matter arising out of the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (Transfer Act).

21. It is, therefore, quite clear that in the context of the administrative law, the word, "malafide" has a peculiar contextual connotation, and therefore, the process of interpretation must show the awareness to this particular peculiarity. In my view, in so far as the first limb of this matter is concerned, the authority concerned, could not have used as these instances to visit the adverse consequences of transfer of the Applicant. On the second limb, I may not go along with the Applicant but that does not mean that I should mechanically uphold the action in respect of the first limb as well. If the requirement is to hold a preliminary enquiry, then I do not think, mere serving the communications which again were served not to the Applicant alone but even to his peers would be sufficient, and therefore, regard being had to all these facts and circumstances, I hold that, on the administrative



ability aspect of the matter which also includes capacity to keep control and check on crimes, the move of the authorities against the Applicant was ill-founded and even in my circumscribed jurisdiction, I shall be failing in my judicial duties were I not to hold in that behalf in the manner warranted by the facts and circumstances. In that respect, the arguments of Mrs. Mahajan were quite well founded deserving acceptance.

22. I now turn to the visit of the Hon'ble Chief Minister aspect of the matter. The facts in this behalf have been already discussed in Para 3 above. Now, even a bare perusal thereof would make it clear that, it was not an innocuous matter. One is quite conscious and aware of the prevalent situation in that behalf. No doubt, the Applicant himself was not alone responsible for everything and maybe he was a small cog in the wheel. It is also possible that, his work might have been interconnected with others. There were dog squads and other sophisticated organizations which were to take part in the security of the Hon'ble Chief Minister. At the same time, in so far as activists of that organization of snakes are concerned, it appears that the Applicant had a major responsibility. But here lies the crux of the matter in which connection, it may be recalled that I had left open

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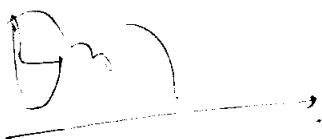
the discussion of Mr. Lonkar's submission about the conduct of the Applicant for having not responded to the adverse comments in the communications. In the first limb, the communications were having a colour of being general and having been given to several others, but this was an Applicant specific instance. As in-charge of Shirala Police Station, it was the Applicant who had to make sure that, necessary steps were taken to prevent untoward from happening and it is in this context that, soon after receiving that kind of show cause notice, the Applicant should have immediately responded thereto and unlike the first limb, if he did not do so herein this case, that would be an adverse circumstance against him. In my view, this is a very significant circumstance against the Applicant which he cannot escape from others had also got the responsibility and it is not clear, if they were or not proceeded against. But the Applicant in this respect cannot escape from responsibility because in so far as the things lay within the jurisdiction of his Police Station, he would have to be held answerable and accountable. About others, no material is there.

23. Much of the facts as far as this aspect of the matter is concerned came to fore when the Affidavits were filed by the Respondents. The Applicant did not file any



Affidavit to counter those averments. However, even if he had done it at the stage of the OA, that would not have been sufficient because he had exposed himself irredeemably by not responding to the show cause notice. That was his undoing, and therefore, in my view, on this very sensitive matter, the Applicant should fail and the PEB was justified in reaching the conclusion that it did. There is no saving grace for the Applicant in this behalf, and therefore, although on this ground alone and not on the first ground, the impugned order of transfer has to be upheld. In so far as punitive nature of transfer is concerned, I must make it clear that the provisions of Section 22(N) of the Police Act are peculiar thereto. That procedure was followed by the PEB and at least in the present set of facts, the impugned action cannot be assailed on the ground of being punitive one. The facts are bound to differ. The enactments and Rules are also bound to differ. On these facts, in respect of the second limb, the impugned order sustains.

24. I, however, make it clear that the Respondents have made it clear in their Affidavits that the circumstances emanating herefrom are not punitive in nature and the Applicant would suffer no disadvantage therefrom. I accept this stand of the Respondents 1 to 3

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but in so far as the second limb of the matter is concerned, relating to the security of the Hon'ble Chief Minister, the impugned action is upheld and the OA stands hereby dismissed with no order as to costs.

Sd/-  
**(K.B. MAIK)**  
**Member-J**  
**18.08.2017**

Mumbai

Date : 18.08.2017

Dictation taken by :

S.K. Wamanse.

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