

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.477 OF 2016

DISTRICT : PUNE

Mr. Ramdas Rajaram Shelke.)
Age : 47 Yrs., Occu.: Assistant Police)
Inspector, R/at : A/3003, Bhakti Heritage)
Opp. Aundh Police Chowky, Pune - 1.)...**Applicant**

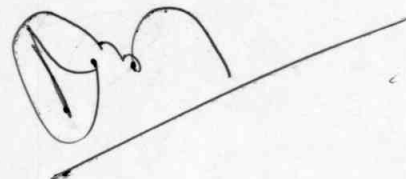
Versus

1. The State of Maharashtra.)
Through the Secretary,)
Home Department, Mantralaya,)
Mumbai - 400 032.)
2. The Director General of Police.)
Shahid Bhagat Singh Marg,)
Colaba, Mumbai.)
3. The Superintendent of Police.)
Pune, Chavan Nagar, Pashan Road,)
Pune - 8.)...**Respondents**

Shri K.R. Jagdale, Advocate for Applicant.

Smt. K.S. Gaikwad, Presenting Officer for Respondents.

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

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DATE : 18.10.2016

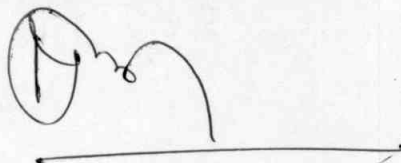
JUDGMENT

1. The Applicant, an Assistant Police Inspector (API) hereinafter calls into question the impugned order of transfer dated 24th May, 2016 whereby along with 34 other Officers of the same rank, he came to be transferred from Pune Rural to Nagpur City. He challenges the said transfer on several grounds under the provisions of Maharashtra Police Act, 1951 as amended from time to time including on 6th April, 2015.
2. I have perused the record and proceedings and heard Shri K.R. Jagdale, the learned Advocate for the Applicant and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.
3. The 1st Respondent is the State of Maharashtra in Home Department. The 2nd Respondent is the Director General of Police and the 3rd Respondent is the Superintendent of Police, Pune. It is a matter of some significance that at the interim stage itself, I had an occasion to deal with this very matter and by a sufficiently detailed interim order, running into as many as six pages, I stayed the said impugned order in so far as it related to the

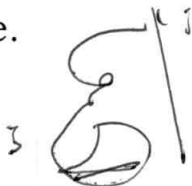


Applicant and mentioned that even if he had been relieved, he should be reposted. In that order itself, I emphasized the fact that the extensive amendments to the provisions of the Police Act came to be occasioned because of the Judgment of the Hon'ble Supreme Court in **Prakash Singh Vs. Union of India (2006) 8 SCC Page 1** whereby the Section 22-N came to be so fashioned as it now exists, and therefore, nobody had the power to trifle with or make light of those particular provisions. In other words, the course of action must strictly accord therewith. I noted in Para 5 an earlier OA when the OA 951/2016 was dealt with by the Hon'ble Vice-Chairman and the OA was dismissed. It was equally true that the conduct of the present Respondents was also not found to be quite meritorious.

4. I dealt with the fact with regard to the alleged demand of illegal gratification to the extent Rs.4 Lakh in order to pressurize the complainant there, he having allegedly belaboured him. That according to the Respondents in all probability was the reason why the Applicant came to be transferred. However, in Para 7, I noted that the precise complaint had not been furnished to me for perusal and the complaint that was furnished to me by the learned PO was against unknown accused and that too, of the commission of an offence under Section 366 of

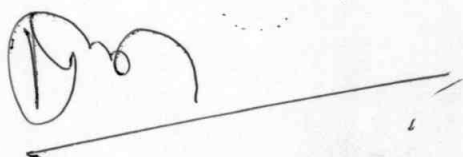
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the IPC. In Para 8, I took specific note of the fact that the immediate place of posting which the Applicant had been transferred from was such where no allegations were made against him so as to warrant his transfer mid-tenure. In Para 9, I paid compliments to the learned PO for having performed her duties well so to say and reasoned out as to why I declined to prolong the making of the interim order. Quite pertinently, and it is really important, in Para 9, I also discussed the fact that when one deals with the issue of the service condition of transfer governed by the duly enacted law, then in that event, the complaints have got their own peculiar hue and the transfer in its entirety cannot be based only on the unverified complaints if the statutory requirements of the transfer were not made out. In effect, I then observed that assuming the same set of facts gave rise to a case under the relevant Conduct Rules, the authorities would be free to take recourse thereto, but then unless the impugned transfer survived the test of the law enshrined inter-alia in Section 22-N of the Police Act, such an act of the authorities cannot be upheld. I noted while dealing with the submission of the learned PO that the Applicant had been relieved, that even if that was so, I would exercise my powers of granting interim relief of mandatory nature at interlocutory stage.

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5. I have noted the gist of my interim order and as I heard the matter just now finally, I find that nothing has changed. If anything, it has changed for worse as far as the Respondents are concerned. Mr. Jagdale, the learned Advocate for the Applicant relied upon the order dated 29.9.2016 made by the Hon'ble Vice-Chairman in disposing of a fasciculus of OAs, the leading one being the **OA 476/2016 (Shri Sunil B. Gidde Vs. The State of Maharashtra and 3 others and other OAs)**. It appears that in that group of OAs, the Applicant in OA 495/2016 was API. Dealing with similar set of facts and the arguments presented before me, especially dealing with what has come to be known as default report, which is the other name of the allegations forming the backdrop of the orders of transfers, the Hon'ble Vice-Chairman was pleased to uphold the case of the Applicants and confirm the interim order therein granted.

6. I myself had several occasions to deal with the OAs arising out of the same order which is impugned herein as well as another order passed on the same date involving the transfers of as many as 70 PIs and at least a few APIs as well. A copy of one such Judgment has been furnished at the Bar and that was a common Judgment in 2 OAs being **OA 466/2016 (Shri Arun Ramchandra**



Pawar Vs. State of Maharashtra and 2 others and one another OA, dated 12.7.2016). I dealt with the history preceding the enactment of Section 22-N of the Maharashtra Police Act in the context of **Prakash Singh** (supra) and several other aspects which are relevant hereto and ultimately, concluded for the Applicants there. The present facts are entirely similar and are governed by the same principles. Although the learned PO tried to still support the impugned order of transfer, I am afraid, it will not be possible to find much substance in her contest. This Original Application will have to be finally allowed. It is accordingly allowed. The interim order dated 3.6.2016 is confirmed in its entirety till such time as the Applicant becomes due for transfer in accordance with law and rules. No order as to costs.

Sd/-

(R.B. Malik)
Member-J
18.10.2016

Mumbai

Date : 18.10.2016

Dictation taken by :

S.K. Wamanse.