

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.493 OF 2020  
(CORRECTED ORDER)**

Smt. Sanghratna Murlidhar Khillare )  
Aged : 39 years, working as Deputy Chief )  
Executive Officer, (Selection Grade), )  
Zilla Parishad, Palghar, )  
R/o. 104, Sunflower Building, )  
Greenhome Society, Tembhode, )  
Palghar. )

Address for service of Notice :

Shri Arvind V. Bandiwadekar, Advocate for the )  
Applicant, having office at 9, "Ram-Kripa", )  
Lt. Dilip Gupte Marg, Mahim, Mumbai 400 016 )

**...Applicant**

**Versus**

1. The State of Maharashtra )  
Through Principal Secretary, )  
Rural Development Department, )  
Having office at Mantralaya, )  
Mumbai 400 032. )

2. Shri R.D. Adsul, )  
Aged Adult, Working as Deputy Chief )  
Executive Officer, (G.A.D.) )  
Zilla Parishad, Kolhapur )

**...Respondents**

Mr. Arvind V. Bandiwadekar, Advocate for Applicant.

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

**CORAM : JUSTICE MRS. MRIDULA BHATKAR, (CHAIRPERSON)**

**DATE : 11.12.2020.**

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

1. Heard Shri Arvind V. Bandiwadekar, the learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.
2. The Applicant, Deputy Chief Executive Officer, G.A.D, Zilla Parishad, Palghar is transferred by order dated 15.09.2020 to Block Development Officer, Panchayat Samiti Murbad, Thane.
3. The learned Counsel Mr. Bandiwadekar is challenging the impugned order on the following grounds :-
  - (a) The applicant was not due for transfer, as he has completed only one year at Palghar. The applicant was promoted and posted only on 03.08.2019 at Palghar. So it is mid-term and mid-tenure transfer.
  - (b) Secondly, the complaint given by one MLA Shri Sunil C. Busare dated 02.06.2020 against the Applicant which was received by the Government on 09.07.2020, is the basis for transfer which is against the law.
4. In the said complaint, it is stated that the Applicant is non-cooperative to the President and Vice-President of Zilla Parishad and also she is responsible for the return of non-utilization of fund of Rs.138 crores of the year 2019-2020.

5. The learned Counsel submits that she was never given any show cause notice, nor she was given opportunity to answer the allegations made against her.

6. The learned P.O. relied on the affidavit-in-reply filed by Dr. Vasant Gopal Mane, filed by Under Secretary, office of Rural Development Department, Mantralaya dated 13.10.2020. She submits that the applicant had completed 4 years and she was not cooperating with the President and the Vice-President so it was difficult to take forward the administration. Thus, the present Original Application is without any foundation and devoid of merit and hence it is to be dismissed. She further submits that her case was put up before the Civil Services Board which was conducted on 04.08.2020.

7. Heard submissions. On perusal of the affidavit it appears that the only reason for the transfer of the applicant is the complaint made by MLA that due to the change in the political power she is not cooperating with the President and the Vice-President of the Zilla Parishad.

8. Perused the minutes of the Civil Services Board at sr no.18, the name of the applicant is appearing and the reason for transfer is mentioned as complaint received by M.L.A.

9. The amended Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred as 'Transfer Act, 2005' for brevity) and the procedure laid down therein is based on the ratio laid by the Hon'ble

Supreme Court in ***Writ Petition (Civil) No.82/2011 (T.S.R. Subramanian & Ors. Vs. Union of India & Ors.) dated 31<sup>st</sup> October, 2013*** with a view to arrest arbitrariness in the transfers. Hence protection and procedure given under 'Transfer Act' is to be strictly followed while taking the decision.

10. In view of the submissions of both the learned Counsel for the applicant and learned Presenting Officer for the Respondents, prima facie the case is made out by the applicant to give interim relief. Though the Government is empowered to transfer the Government servant even mid-term or mid-tenure or after completion of the regular tenure. Such power should not be used arbitrarily. If the State wants to transfer any Government servant on the basis of the complaint, then the opportunity to explain the allegation made therein is required to be given to the said Government servant. The principles of equity and natural justice are to be followed by the State before taking decision against any Government servant.

11. The reliance is placed by the judgment of this Tribunal dated 29.09.2020 (Shri Sanjay Rambhau Kadam) in O.A.No.404 of 2020. The Respondent in the case in hand, matter ought to have issued notice and have called the Applicant to explain the allegations and thereafter should have taken the decision. Thus the impugned transfer order in the present O.A. is hereby cancelled and the applicant is directed to report back till 08.12.2020.

12. Original Application is allowed with no order as to costs.

Sd/-

**(Mridula Bhatkar J.)**  
**Chairperson**

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**Date : 11.12.2020**

**O.A.No.493 of 2020**

Smt. S.M. Khillare ... Applicant

Vs.

The State of Maharashtra & Ors ... Respondents

1. Heard Shri Arvind V. Bandiwadekar, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. Mentioned by learned Advocate for the Applicant and taken on board.

3. Learned Advocate for the applicant has produced praecipe dated 11.12.2020 for speaking to minutes of the order dated 3.12.2020 passed in the above O.A.

4. The following sentence is to be added in the order dated 03.12.2020 :-

(a) "12. S.O. to 02.02.2021. Already adjourned and admitted."

To be read as :

"12. O.A. is allowed with no order as to costs."

(b) Appearance of Smt. Archana B.K. is to be replaced by the name of Smt. K.S. Gaikwad.

5. Praecipe dated 08.12.2020 is disposed off.

Sd/-

**(Mridula Bhatkar, J.)  
Chairperson**