

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO. 905 OF 2015**

**DISTRICT :SATARA**

Smt. Jyotsna Vasantrao Kapade )  
age-36 years, )  
residing at 56, "Belbhandar", )  
Sambhajnagar, Satara-415004 )  
Address for service of notice )  
Same as above )...**Applicant**

**VERSUS**

1. State of Maharashtra )  
Through Chief Secretary, )  
Mantralaya, Mumbai – 400 032. )

2. The Principal Secretary, )  
Women and Child Development )  
Department, Mantralaya, )  
Mumbai – 400 032. )

3. Commissioner, )  
Women and Child Welfare, )  
Maharashtra State, 28, )  
Queens Garden, Near Old Circuit )  
House, Pune-411 001. )

4. Chief Executive Officer, )  
Satara Zilla Parishad )  
Sadar Bazar, Satara- 415001. )  
Address for service of notice )  
Same as above )....**Respondents**

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Smt. Punam Mahajan, learned Advocate for the Applicant.

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

**CORAM : Shri Rajiv Agarwal, Vice-Chairman**

**DATE : 07.01. 2016**

**ORDER**

1. Heard Smt. Punam Mahajan, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant challenging the order dated 23.10.2015, transferring her from Satara to Karad in the same district.

3. Learned Counsel for the Applicant argued that the Applicant was transferred by order dated 30.5.2015 from the post of Superintendent, Government Ashakiran Women Hostel, Karad, Dist. Satara to the post of Child Development Project Officer (Rural) Satara on her request after completion of her tenure in the earlier post. The Applicant has now been transferred by impugned order dated 23.10.2015 to the post of Superintendent, Women's Hostel, Karad before she had completed her tenure. The order is mid term also, as it has been issued in the month of October and not in the months

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of April or May. Learned Counsel for the Applicant stated that the Applicant had sought transfer to Satara as her husband is suffering from Pulmonary Blood Clots and requires treatment at Satara Hospital. Learned Counsel for the Applicant contended that the recommendations of the Civil Services Board cannot be called valid as one of the members was absent. Also the impugned order is ostensibly issued to comply with the directions of Hon'ble Bombay High Court in P.I.L. No.28 of 2014 dated 20.11.2014, but that may not be the fact. If that was the case, the transfer order should have been issued during the general transfers of 2015, when, on the contrary, the Applicant was transferred out from the post of Superintendent of a Women's Hostel. Learned Counsel for the Applicant argued that the impugned order deserves to be quashed and set aside.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that Hon'ble Bombay High Court on 20.11.2014 in P.I.L. No.28 of 2014 directed the State Government to post Women officers in the post of Superintendent in Women's & Girls Hostels etc. 17 posts of Superintendents were vacant. 8 candidates were available for promotion and it was decided to fill 9 posts by transfer of suitable women officers. This is reflected from the minutes of the meeting of the Civil Services Board dated 5.8.2015. Learned P.O. argued that the directions of Hon'ble High Court dated 20.11.2014 were being implemented by the Civil Services Board. Even if, for the sake of argument, it is accepted that there was some delay in implementing the

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directions of Hon'ble High Court, that will not be a valid ground to challenge the impugned transfer order. Mere absence of one member of the Civil Services Board will not invalidate its proceedings, as the majority has approved the proposal. Learned P.O. contended that the transfer order of the Applicant has been issued with the approval of Hon'ble C.M. as required under Section 4(4) (ii) and 4(5) of the Maharashtra Government Servants Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 (the Transfer Act).

5. I find that the mid-term and mid-tenure transfer of the Applicant has been issued in compliance with the relevant provisions viz. Section 4(4) (ii) and 4(5) of the Transfer Act. The reasons for such transfer are also valid and cannot be challenged. There is scope to say that there was some delay in complying with the directions of Hon'ble Bombay High Court dated 20.11.2014. However, the request of the Applicant to quash the impugned order will only aggravate the situation. There will be further delay in implementing the directions issued by Hon'ble High Court. The other ground that one member of the Civil Services Board was not present, so its recommendations are not valid is not tenable. Majority of Board members had recommended the proposal. It has approval of Hon'ble Chief Minister as required by the Transfer Act for issuing mid term and mid tenure transfer order in respect of the Applicant. No interference with the impugned order is called for.

6. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

Sd/-

**(RAJIV AGARWAL)**  
**(VICE-CHAIRMAN)**

**Date : 07.01.2016**

**Place : Mumbai**

**Dictation taken by : SBA**

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