

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.927 OF 2022**

**DISTRICT: Thane  
SUBJECT : Transfer**

Shri Bashir Ahmed Karim Shaikh )  
Age:- 56 years , Occ. Transferred from the post )  
of Kolsewadi Police Station, Kalyan, Dist. Thane. )  
R/at 303, Sunshine Apartments, Thane-Belapur )  
Road, Kalwa, Thane. )... **Applicant**

**Versus**

1. The Commissioner of Police, Thane Police )  
Commissionerate, having office at Thane. )
2. Mahendra R. Deshmukh, Aged : Adult, )  
transferred from Control Room, Thane city )  
in place of the Petitioner as Senior Police )  
Inspector, Kolsewadi Police Station, Kalyan )  
Dist. Thane. ).. **Respondents**

Shri Arvind V. Bandiwadekar, learned Counsel for the Applicant.  
Smt. Kranti Gaikwad, learned Presenting Officer for the Respondent.  
Smt. S. V. Gutte, learned Counsel for Respondent No.2.

**CORAM : A.P. Kurhekar, Member (J)**

**DATE : 21.03.2023.**

**ORDER**

1. The Applicant has challenged the transfer order dated 22.08.2022 whereby the PEB at Commissionerate level, Thane transferred him from Kolsewadi Police Station to Special Branch, Thane City exercising the powers under Section 22N(2) of Maharashtra Police Act.

2. Briefly stated facts giving rise to O.A. are as under:-

The Applicant is serving as Police Inspector on the establishment of Respondent No.1 - Commissioner of Police, Thane. He was transferred from Jalgaon to Thane and consequent to it, the Commissioner of Police, Thane by order dated 22.10.2021 posted him as Sr. P.I. at Kolshewadi Police Station. He claims to be entitled to two years tenure at the said Police Station. However, the PEB at Commissionerate level transferred him from Kolsewadi Police Station to Special Branch, Thane City by transfer order dated 22.08.2022 on the ground of default exercising the powers under Section 22N(2) of Maharashtra Police Act. The Respondent No.2 by same order dated 22.08.2022 is posted in place of the Applicant. Being aggrieved by it, the Applicant has filed present O.A. *inter-alia* contending that he is transferred without there being any such administrative exigency or special case as contemplated under Section 22N(2) of Maharashtra Police Act and transfer is bad in law.

3. The Respondents resisted the O.A. by filing Affidavit in Reply justifying the transfer order *inter-alia* contending that in view of default report submitted by the Deputy Commissioner of Police, Zone-3, the PEB in its meeting dated 22.08.2022 took the objective decision to transfer the Applicant from Kolsewadi Police Station to Special Brach, Thane City and accordingly, he was transferred and in his place, the Respondent No.2 was posted.

4. Shri Arvind V. Bandiwadekar, learned Counsel for the Applicant sought to assail the impugned transfer order dated 22.08.2022 *inter-alia* contending that Applicant is transferred on alleged default report submitted by the Deputy Commissioner of Police but there is no such deliberation or discussion of alleged default attributed to the Applicant in Minutes of PEB and in absence of any such deliberation and reasoning in the Minutes of PEB, the order of transfer is punitive and liable to be quashed. He further raised the issue of non-holding of preliminary enquiry in respect of alleged default report in terms of Circular issued by the DGP on 07.10.2016 and 08.11.2017 which were

issued on the basis of decision rendered by the Tribunal as to the steps required to be taken for mid-term and mid-tenure transfer on the basis of complaint or default.

5. Per contra, Smt. Kranti Gaikwad, learned Presenting Officer as well as Smt. Gutte, learned Counsel for Respondent No.2 has pointed out that transfer being incidence of Government service, the Applicant has no legally vested right to stay at Kolsewadi for specific period and the PEB at Commissionerate level is the competent authority to transfer him even before completion of his normal tenure where administrative exigency warrants the same. According to them, in view of default report dated 01.07.2022 and 14.10.2022 (page 69 and 71 of PB), the PEB took the decision to transfer the Applicant from Kolsewadi Police Station to Special Brach, Thane City.

6. In view of the pleadings and submissions, the issue posed for consideration whether impugned transfer order dated 22.08.2022 deserves interdiction by the Tribunal.

7. Before proceeding ahead on merits of the case, at this juncture it would be apposite to look into the provisions of Maharashtra Police Act particularly amendments made therein in pursuance of directions given by the Hon'ble Supreme Court in **(2006) 8 SCC 1 (Prakash Singh & Ors. V/s Union of India & Ors.)**.

8. True, a Government servant holding a transferrable post has no vested right to continue at one place or other and is liable to be transferred from one place to other. Now, the transfers of Police Personnel are governed and controlled by the provisions of Maharashtra Police Act in which normal tenure of Police Personnel and procedure for mid-term and mid-tenure transfer is laid down. Here, reference of Section 22N is material which is as under:-

**“22N.** Normal tenure of Police Personnel, and Competent Authority [(1) Police Officers in the Police Force shall have a normal tenure as mentioned below, subject to the promotion or superannuation:-

- (a) for Police Personnel of and above the rank of Deputy Superintendent of Police or Assistant Commissioner of Police a normal tenure shall be of two years at one place of posting;
- (b) for Police Constabulary a normal tenure shall be of five years at one place of posting;
- (c) for Police Officers of the rank of Police Sub-Inspector, Assistant Police Inspector and Police Inspector a normal tenure shall be of two years at a Police Station or Branch, four years in a District and eight years in a Range, however, for the Local Crime Branch and Special Branch in a District and the Crime Branch and Special Branch in a Commissionerate, a normal tenure shall be of three years;
- (d) for Police Officers of the rank of Police Sub-Inspector, Assistant Police Inspector and Police Inspector a normal tenure shall be of six years at Commissionerate other than Mumbai, and eight years at Mumbai Commissionerate;
- (e) for Police Officers of the rank of Police Sub-Inspector, Assistant Police Inspector and Police Inspector in Specialized Agencies a normal tenure shall be of three years.]

9. Thus, there is fine distinction between Section 22N(1)(c) and 22N(1)(d). In present case, the Applicant being Police Inspector at Thane Commissionerate, Section 22N(1)(d) would apply and his tenure shall be six years at Thane Commissionerate. Here notably, there is no specific reference of tenure at one place of posting alike Section 22N(1)(a) or 22N(1)(b). On other hand, as per Section 22N(1) (d), the tenure of police officers of rank of PSI, API and PI shall be of 6 years at Commissionerate other than Mumbai, and 8 years at Mumbai Commissionerate. Suffice to say, the tenure of Applicant being Police Inspector is six years in a Commissionerate and not at particular place of posting. This distinction needs to be borne in mind.

10. Whereas, as per Section 22N(2) of Maharashtra Police Act in exceptional case, in public interest and on account of administrative exigency, the Competent Authority is empowered to make mid-term transfer of Police Personnel. Thus, in present case, the PEB at Commissionerate level invokes Section 22N(2) of Maharashtra Police Act.

11. Now, turning to the facts of present case, the PEB at Commissionerate level in its meeting dated 22.08.2022 took the decision to transfer eight Police Personnel including Applicant stating that their transfers are necessitated in public interest, special case and for administrative exigency in the light to complaints received by the department. True, there is no further detail discussion as to what are the complaints or lapses or default attributed to Police Personnels/Applicant for their transfer. The minutes of PEB are as under:-

*" महाराष्ट्र पोलीस अधिनियम-१९५१ मधील कलम २२ न (१)व (२) अन्वये प्राप्त अधिकाराचा वापर करून, आयुक्तालय स्तरावरील पोलीस आस्थापना मंडळ यांनी जनहितार्थ, विशेष बाब व प्रशासनिक निकड तसेच प्राप्त झालेला तक्रारी अर्ज व कायदा व सुव्यस्थेच्या कारणास्तव तसेच सक्षम प्राधिकारी म्हणून प्रदान असलेल्या अधिकाराचा वापर करून खालील नमुद सहायक पोलीस आयुक्त व पोलीस निरीक्षक यांची त्यांच्या नावासमोर दर्शविल्याप्रमाणे बदल्या करण्याबाबत निर्णय घेण्यांत आलेला आहे."*

12. True, the PEB ought to have recorded some reasons about lapses, default attributed to the Applicant. However, this is not a case where transfer is effected without there being any such material on record. In transfer matters, even if, the reasons are not recorded elaborately, the Tribunal requires to see contemporary record to find out whether there was any such administrative exigency or public interest for such transfer and also to find out whether the committee has made objective assessment of this situation. Needless to mention, once the record discloses existence of subjective satisfaction, in that event, subjectivity of satisfaction cannot be looked into by the Tribunal in limited judicial power of review.

13. As regard alleged default, the Respondent No.1 placed on record the default report dated 01.07.2022 and 04.07.2022 submitted by Shri Sachin Gujal, the Deputy Commissioner of Police, Zone-III, Kalyan within whose jurisdiction, the Applicant was working. In both the default reports, the Deputy Commissioner of Police attributed various lapses of nonperformance and dereliction in duty. The lapses are as under :-

"१. पोलीस ठाण्याचे हद्दीत कोणत्याही प्रकारचे अवैध धंदे चालु राहणार नाहीत याबाबत वेळोवेळी लेखी तसेच गुन्हे आढावा बैठकीत वरिष्ठांनी तसेच आम्ही मौखिक सुचना दिलेल्या असून पोलीस ठाण्याच्या हद्दीतील अवैध धंद्याचे समुळ उच्चाटन करणेबाबत कळविण्यात आले आहे. असे असतानाही कोळसेवाडी पोलीस ठाण्याचे हद्दीत गुन्हे शाखा, घटक-४, उल्हासनगर यांचे पथकाने म्हसोबा चौक, कल्याण पुर्व येथे छापा टाकून २ आरोपी हे जुगार खेळतांना मिळून आले त्यांचेकडून ८४,५४०/- रु व जुगाराचे साहित्य हस्तगत करून त्याबाबत गुन्हा दाखल केला आहे. सदरबाबत वपोनि/कोळसेवाडी पो.स्टे. यांना इकडील कार्यालयीन पत्र क्र.६४८९/२०२, दिनांक ०२.११.२०२१ अन्वये खुलासा सादर करणेबाबत कळविले असतानाही त्यांनी नमुद बाबत आजपावे कोणताही खुलासा सादर केलेला नाही.

२. त्याचप्रमाणे कोळसेवाडी पोलीस स्टेशन गुरज ६४९/२१, भादवि कलम ३९२, ३४ प्रमाणे ०७/१२/२०२१ रोजी १५:१४ वा. जबरीने चैन चोरीचा गुन्हा दाखल करण्यात आला आहे. नमुद गुन्ह्यातील घटना ही सकाळी ०७.०० वा. चे सुमारास घडली असतांना गुन्ह्याचे गांभीर्य लक्षात घेवून वपोनि यांनी स्वतः घटनास्थळी भेट देवून शहानिशा करून अधिनस्त असलेले पोलीस अधिकारी/अंमलदान यांचेकरवी तात्काळ कार्यवाही करण्यासाठी भौतिक पुरावे प्राप्त करणे, नाकाबंदी लावणे, तसेच घडलेल्या घटनेची नियंत्रण कक्ष, कल्याण व वरिष्ठांना माहिती देणे अशी कार्यवाही करणे अपेक्षित होते त्याचप्रमाणे हद्दीत घडणा-या बहूतेक घटनांबाबत अनभिज्ञ असल्याचे दिसून आले याबाबत इकडील कार्यालयीन पत्र क्र.७३६६/२०२१, दिनांक ०८/१२/२०२१ अन्वये खुलासा करणेबाबत कळविले असतानाही त्यांनी नमुद बाबत आजपावेतो कोणताही लेखी खुलासा सादर केलेला नाही.

३. त्याचप्रमाणे कोळसेवाडी पोलीस ठाण्याचे अभिलेखावरील मालमत्ता संदर्भात १पेक्षा जास्त दाखल असलेल्या आरोपीतांवर मु.पो.अधि.१९५१ चे कलम ५६ प्रमाणे कारवाई करण्यासाठी प्रस्ताव सादर करणेबाबत कळविले असतांना त्यांचेकडून कोणतीही ठोस प्रतिबंधक कारवाई करण्याबाबत प्रस्ताव सादर पोहेका/४८० अशोक आशान यांनी अहवाल सादर केले त्या अहवालावर वपोनि/कोळसेवाडी पोलीस ठाणे सुस्पष्ट अभिप्राय देणे आवश्यक असतांनाही अभिप्राय न नोंदविता दाखल व पाहून सादर म्हणून स्वाक्षरी केली व तसेच पोलीस ठाण्यात प्रतिबंध कारवाई पथक प्रमुख म्हणून पोनि/सपोनि किंवा पोउपनिरी दर्जाचे अधिकारी का नाहीत याबाबत इकडील कार्यालयीन पत्र क्र.५३१२/२०२१, दिनांक ०९/०६/२०२२ अन्वये खुलासा करणेबाबत कळविले असतांनाही त्यांनी नमुद बाबत आजपावेतो कोणताही लेखी खुलासा सादर केलेला नाही.

४. तसेच नि.तस.ईसम नामे आशितोष ब्रम्हवंत सिंग उर्फ रॉक, यांस म.पो.कायदा १९५१ चे कलम ५५ अन्वये २ वर्षाकरीता मुंबई, मुंबई उपनगरे, ठाणे व रायगड या जिल्ह्यातून दिनांक १८.१.२०२२ रोजी हद्दपार करण्यात आले आहे. सदर नि.ह.इसम हा हद्दपारीचे कालावधीत कोळसेवाडी पोलीस ठाण्याचे हद्दीत हद्दपार केलेनंतर २ महिन्यांचे आत विनापरवाना प्रवेश करून नाना पावशे चौकातील बांधकामाचे जागी प्रवेश करून वॉचमनला मारहाण करून मालमत्तेचे नुकसान केलेबाबत पो.स्टे.गुरज १३६/२२, भा.द.वि.कलम ४५२, ४२७, ५०६ प्रमाणे गुन्हा दाखल करण्यात आला आहे. सदरची बाब ही अत्यंत गंभीर स्वरूपाची असल्याने अधिनस्त अधिकारी/अंमलदार यांचेवर प्रभावी नियंत्रण नसल्याचे तसेच गुन्हेगारांवर वचक नसल्याबाबत इकडील कार्यालयीन पत्र क्र.२४६९/२०२२, दिनांक ३०/०३/२०२२ अन्वये खुलासा सादर करणेबाबत कळविले असतांनाही त्यांनी नमुद बाबत आजपावेता कोणताही लेखी खुलासा सादर केलेला नाही.

एकंदरीत उपरोक्त नमुद घटनेच्या अनुषंगाने वपोनि, श्री.बशीर शेख, कोळसेवाडी पोलीस स्टेशन येथील वरिष्ठ अधिकारी यांनी वेळोवेळी दिलेल्या सुचनांकडे जाणीवपूर्वक दुर्लक्ष करून कोळसेवाडी पोलीस स्टेशन प्रभारी अधिकारी म्हणून पार पाडण्याचे कर्तव्याबाबत गांभीर्य न ओळखता वेळोवेळी बेजबाबदारपणाचे वर्तन आहे यावरून त्यांचेविरुद्ध शिस्तभंगाची कार्यवाही होणेस विनंती आहे.’’

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कोळसेवाडी पोलीस स्टेशन अकरमात मृत्यु रजि.नं.८३/२०२२, सीआरपी १७४ प्रमाणे दाखल दिनांक १३/६/२०२२ रोजी ०२:१४ वा. दाखल करण्यात आला आहे. नमुद प्रकरणातील मयत मुलगी नामे कुमारी स्नेहा अजयकुमार मिरा, वया १८ वर्षे हिंस मागील ४ वर्षांपासून तिचे मोबाईलवर तसेच तिचा मानसिक, शारीरिक, लैंगिक छळ होत असल्याच्या बाबीमुळ तिचे राहते बिल्डींगचे छतावरून उडी मारून आत्महत्या केली आहे. नमुद प्रकार हा महिला अत्याचार संदर्भात गंभीर स्वरूपाचा गुन्हा असतांनाही गुन्हा दाखल केला नाही. त्यावेळी सदर गंभीर घटनेची माहिती श्री.बशीर शेख, वपोनि/कोळसेवाडी यांनी तात्काळ वरिष्ठ कार्यालयास कळविणे आवश्यक असताना त्याबाबत माहिती कळविली नाही. त्याबाबत इकडील कार्यालयाकडून प्रस्तूत प्रकरणी गुन्हा दाखल करून खुलासा सादर करण्याबाबत लेखी पत्र जा.क.५४३३/२२, दि.१५/६/२०२२ अन्वये कळवूनही आजपावेतो खुलासा सादर केलेला नाही.

त्याचप्रमाणे नमुद अ.मृत्यु प्रकरणी कोळसेवाडी पोलीस स्टेशन येथे गुरन.....भादविक ३०६, ३७६, ३४ प्रमाणे गुन्हा विलंबाने दाखल करण्यात आला. त्याबाबत सोशल मिडीयावर तसेच पोलीस ठाण्याचे हद्दीत बॅनर्स लावून प्रस्तूत प्रकरणास राजकीय स्वरूप देण्याचा प्रयत्न झाला. परिणामी सदर घटनेच्या निषेधार्थ दिनांक १९/६/२०२२ रोजी कोळसेवाडी पोलीस स्टेशन हद्दीत सामाजिक व राजकीय पक्ष/संघटनेच्या वतीने मोर्चाचे आयोजन करण्यात आले होते. सदर मोर्चाचे गांभीर्य न ओळखता इकडील कार्यालयास अथवा वरिष्ठांना पुर्व सुचना दिली नाही अथवा पो.स्ट.च्या बाहेरून अतिरिक्त मनुष्यबळाची मागणी केली नाही. मोर्चामध्ये अनेक संघटना तसेच अनेक शाळा कॉलेजचे विद्यार्थी असे अंदाजे १२०० ते १५०० आंदोलनकारी सहभागी झाले होते. तसेच मोर्चा आक्रमक झाल्याचेही दिसून आले. सदर मोर्चला मिळणा-या पाठिंब्याबाबत तसेच आक्रमकतेबाबत अंदाज बांधणे संबंधात पोलीस ठाण्याचे अधिनस्त गोपनिय यंत्रणा पुर्णपणे अपयशी ठरली. सदर मोर्चाचे दरम्यान आक्रमक झालेल्या जमावाची कल्पना वपोनि/कोळसेवाडी यांनी स्वतःहुन आम्हास देणे आवश्यक असतांना नमुद माहिती गुप्त वार्ता विभागाच्या (SID) अधिका-यांकडून आम्हास मिळाल्यानंतर आम्ही फोन करून विचारणा केल्यानंतर सदर बाबत आम्हास माहिती कळविली. त्यामुळ ऐनवेळी बाजारपेठ/म.फुले चौक/खडकपाडा पो.स्टे.येथुन अतिरिक्त बंदोबस्त मागवुन निर्माण होणा-या कायदा व सुव्यवस्थेच्या परिस्थितीवर नियंत्रण मिळवावे लागेल.

एकंदरीत महिलांविरुद्धच्या अत्यंत गंभीर स्वरूपाचे प्रकरणात निघणा-या मोर्चाचे संख्याबळ मानसिकता यांचा अंदाज न घेता वरिष्ठांना पुर्व कल्पना न देणे तसेच बंदोबस्ताचे योग्य नियोजन न करणे असे बेफिकीरपणाचे वर्तन केले आहे. त्याबाबत वपोनि यांना अ.शा.पत्र क्र.३१/२२ दिनांक २१ तसेच अ.मृ.८३/२२ संदर्भात लेखी खुलासा विचारता तो अदयापपावेतो सादर केलेला नाही.’’

14. As such, this is not a case where the Applicant is transferred on the basis of complaint made by 3rd person which necessitate some inquiry about the veracity of complaint. Rather this is a case where transfer is made in view of the report submitted by his superior authority i.e. Deputy Commissioner of Police, Zone-III who has an opportunity to see and supervise the performance of the Applicant. In default report, it is further clarified that the Applicant was given memo /show cause notice from time to time but he did not submit the explanation. Though, learned Counsel for the Applicant tried to contend that his client has submitted explanation, no such authentic record of submitting explanation to memo referred in default report is forthcoming.

15. Shri A. V. Bandiwadekar, learned Counsel for the Applicant in reference to Rejoinder sought to contend that at the time of consideration of interim relief, the record was produced by the department but it was not showing any such default as now attributed to the Applicant. I find no substance there in in view of the default reports dated 01.07.2022 and 04.07.2022 annexed to Affidavit in Reply which are at page nos.67 and 69 of PB.

16. True, in default report, the DCP did not make any specific recommendation of transfer as pointed out by learned Counsel for the Applicant but that hardly matters. In default report, the DCP recommended for appropriate disciplinary action. On receipt of such report, it was for PEB or disciplinary authority to find out solution and where competent authority was satisfied that Applicant's transfer was necessitated on account of lapses attributed to him then such decision of competent authority can hardly be interdicted unless it is shown malafide. In present case, no such malafide can be attributed in the transfer. On the contrary, the transfer is made having found imperative from the point of public interest and administrative exigency.



17. Indeed, the Hon'ble Supreme Court in **(2004)3 SCC 245 (Union of India V/s Janardan Debanath)** held whether there was any mis-behavior or misconduct can be gone into departmental proceeding and for the purpose of effecting a transfer, the question of holding an enquiry to find out whether there was mis-behavior or conduct unbecoming of an employee is unnecessary and what is needed is the prima facie satisfaction of the competent authority.

18. Learned Counsel for the Applicant to bolster up his contention placed reliance on the decision **2021 (4) Mh.L.J. (State of Maharashtra & Ors. V/s Dr. Ashok R. Anand)** to contend that where transfer is punitive, the court ought not hesitate to strike down the transfer order. Indeed, what the Hon'ble High Court held in Para No.13 is as under:-

*"13. Finally, we record our agreement with the contention of Ms. Sonal that the inquiry report dated May 14, 2020 formed the foundation for Dr. Anand's transfer to SRTR Medical Hospital and has civil consequences. The transfer was directed not purely in public interest or administrative exigency, but treating the Inquiry Committee's report as sacrosanct without Dr. Anand being given an opportunity of defending the allegations levelled against him and without JT-WPL-2430-2021 giving him the chance to respond to such report. Mere handing over of a questionnaire for eliciting views on certain queries is no part of due process of law. It has transpired from the materials on record that Dr. Anand had been quarantined for quite some time and as a result thereof he was not regularly available for discharge of his duties at GGMC. If indeed such absence affected the hospital administration as well as there was lack of proper health care facilities for patients, nothing prevented a simplicitor transfer order posting Dr. Anand to SRTR Medical Hospital being issued without casting any stigma on his reputation or performance of duties. The impugned order dated August 5, 2020 waxes eloquent on how Dr. Anand was found to be remiss in discharging duties, triggering the transfer. A Government servant, holding a transferable service, can be transferred from one post to another having regard to administrative policy or practice or because of administrative reasons is beyond any shadow of doubt. When reasons for transfer are administrative in nature and the appropriate authority acts bona fide, the Court has to stay at a distance and not interfere with such administrative order of transfer. However, an order of transfer could be labelled as mala fide if it is used as a cloak for punishment. Unless a case of mala fide is pleaded and proved, it may not be appropriate for the Court to review the expediency and propriety of an administrative order to transfer a*

*Government servant from one post to the other. Whenever a transfer order is proved to have been issued mala fide or when such an order has penal consequences, the Court ought not hesitate to strike down the transfer order.*

19. Indeed, the above decision supports the Respondent's contention. In present case, the transfer cannot be said punitive or cloak on punishment since transfer is made on account of administrative exigency as continuation of the Applicant at Kolsewadi Police Station found not conducive for police administration. Thus, once there is *prima-facie*, satisfaction of the competent authority that the transfer is necessitated due to administrative reasons then it need not be interfered with by the Tribunal.

20. Learned Counsel for the Applicant further referred to the decision of the Tribunal in **O.A. No.461/2022 (Ramkrishan R. Jadhav V/s The Additional Director General of Police (Traffic), Mumbai & Anr.)**, decided on 10.08.2022 in which transfer was found bad for want of the recommendation of PEB -2 as contemplated under Section 22J-4(b) of Maharashtra Police Act. True, the default was also one of the grounds but it was not enquired with by conducting preliminary enquiry. The decision rendered by the Tribunal in **O.A.No.1023/2014 (Vijay Patil v/s State of Maharashtra & Ors.)** and **O.A.No.806/2019 (Sachin Bari V/s State of Maharashtra & Ors.)**, decided on 03.10.2019 are also quite distinguishable since those are delivered in fact situation. Needless to mention, the decision rendered by the Tribunal in one matter *ipso-facto* would not apply to another matter and single additional factor or change in factual situation make a lot of difference. Therefore, one need to decide the case on the basis of fact and circumstances of the case.

21. Before concluding, it would be further apposite to note the language and import of Section 22N(d) of Maharashtra Police Act as reproduced above which provides that normal tenure of PI shall be six years at Commissionerate other than Mumbai. In present case, the Applicant was posted at Kolsewadi Police Station and transferred to

Special Branch, Thane City by impugned order dated 22.08.2022. As such, the posting of the Applicant was in Commissionerate and where circumstances warrants, the PEB at Commissionerate level is empowered to transfer him within Commissionerate in terms of Section 22N(2) of Maharashtra Police Act. In other words, only because the Applicant was posted at Kolsewadi Police Station, he cannot have legally vested right to continue at Kolsewadi for six years and the PEB at Commissionerate level is empowered to transfer him within Commissionerate where public interest or administrative exigency warrants so. As such, for sake of argument even assuming that there was no such serious default against the Applicant, in that event also, the Applicant's posting at Commissionerate being six years, he could not claim legally vested right to continue at one place much less legally enforceable right.

22. The totality of the aforesaid discussion leads me to sum up that challenge to the communication dated 18.05.2011 holds no water and O.A. is liable to be dismissed. Hence, the following order :-

**ORDER**

The Original Application is dismissed with no order as to costs.

Sd/-

**(A.P. Kurhekar)**  
**Member (J)**

*Place: Mumbai*

*Date: 21.03.2023*

*Dictation taken by: Vaishali Santosh Mane*

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