

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.954 OF 2019**

**DISTRICT : Raigad**

Smt. Rakhi Rajaram Gharge )  
Age : 30 years, Occ : Govt. Service )  
R/at Building NO.41, Room No.802, A wing, )  
Sai Sadan Co.Op.Hsg. Society, Nehru Nagar, )  
Kurla (East), Mumbai 400 024. )...**Applicant**

**Versus**

1. The Secretary (Revenue), Revenue & )  
Forest Department, Mantralaya, )  
Mumbai 400 032. )
2. The Settlement Commissioner and )  
Director of Land Records, 2<sup>nd</sup> & 3<sup>rd</sup> floor,) )  
New Administrative Building, Opposite )  
Counsel Hall, Agarkar Nagar, )  
Pune 411 001. )
3. Deputy Director of Land Records, )  
Konkan Region, 66/68 L, Old Customs )  
House Road, Kala Ghoda, Fort, )  
Mumbai 400 001. )
4. The District Superintendent of Land )  
Records, Raigad, in the premises of )  
District Collector, Raigad, )  
Alibaug – 402 201. )
5. District Collector, Raigad, Near Heera )  
Court Lake, Police Line, Alibaug 402201 )....**Respondents**

**Shri C. T. Chandratre, Advocate for Applicant.**

**Smt. Archana B. K., Presenting Officer for Respondents.**

**CORAM : A.P. KURHEKAR, MEMBER-J**

**DATE : 13.12.2019.**

### **JUDGMENT**

1. Applicant has challenged the impugned order dated 31.05.2019 whereby she was transferred from Karjat, Dist. Raigad to Roha, Dist. Raigad without considering any of the options given by her while submitting information at the time of general transfer.

2. At the relevant time, the Applicant was posted as Surveyor/ Jr. Clerk in the office of Deputy Superintendent of Land Records, Karjat, Dist. Raigad. She had completed six years tenure, and therefore, due for transfer. Before transfer, options were called in terms of G.R. dated 09.04.2018 which inter-alia provides for calling options from the Government servants due for transfer. Accordingly, the Applicant has given ten options from Mumbai and Mumbai Suburban District. She has given options of Bhandup, Ghatkopar, Chembur, Bandra, Vile Parle, Kurla, Mulund, Borivali and Panvel. She gave these options on the ground that her parents resides at Mumbai who can look after her eight months baby. However, without giving thought to the options given by the Applicant, she was transferred in the office of Deputy Supt. of Land Records, Roha, Dist. Raigad. This order is challenged by the Applicant in the present O.A.

3. Shri C. T. Chandratre, learned Counsel for the Applicant has pointed out that there is complete breach and contravention of Government G.R. dated 09.04.2018 which inter-alia provides for considering options given by the Government servants for posting. He has further pointed out that even after transfer, the Applicant has made representation on 06.06.2019 and 20.06.2019 for change of posting but in vain. He, therefore, submits that impugned order be set aside and directions be issued to consider the representation of the Applicant for posting as per options given by her.

4. Per contra, learned P.O. sought to contend that the matter was placed before the Civil Services Board (CSB) wherein request of the Applicant for out of district transfer was rejected. Except this, no other submission was advanced to justify the rejection of her request for transfer out of district.

5. Perusal of record reveals that in terms of G.R. dated 28.08.2017 firstly the matter was placed before the District Level Committee and in view of request of the Applicant for out of district transfer, it was again placed before the CSB at the level of Settlement Commissioner and Director of Land Records, Pune. Perusal of Minutes of District Level Committee (Page No.85 of PB) reveals that all that Committee stated जिल्हाबाहेर बदलीचे कारण संयुक्तीक नाही. नियमित बदलीस विचारार्थ ठेवता येईल. In fact it was general transfer and meeting seems to have been held on 29.05.2019. As such, it being appropriate time for general transfer, the request of the Applicant ought to have been considered in appropriate manner. On the contrary, Committee stated नियमित बदलीस विचारार्थ ठेवता येईल. It shows total non application of mind. Furthermore, no reason is mentioned for not considering out of district transfer. All that it is stated in the Minutes that reasons given by the Applicant for out of district are not consistent. Suffice to say, there was no application of mind while considering the request made by the Applicant. Admittedly, the options given by the Applicant were vacant as noted in the Minutes still Committee did not bother to consider the request in proper perspective. Apart, it has not recorded any reason much less acceptable to reject the claim made by the Applicant for out of district transfer.

6. Later, the matter was placed before the CSB at the level of Settlement Commissioner and Director of Land Records on 31.05.2019. Here also the position is not different. The note mentioned by CSB in its District Level Committee was reproduced and

it too mechanically rejected the request of the Applicant for out of district transfer. No reason much less satisfactory is forthcoming from either of the Minutes of the CSB.

7. True, transfer is the incidence of service and no Government servant can insist for any particular post. It falls exclusively within prerogative of the executive. However, where the Government has taken policy decision in terms of G.R. dated 09.04.2018 to make transfers with counseling so that difficulties faced by the Government servant can be alleviated and minimum inconvenience is caused to them by accommodating them as per options given by them then needs to be followed unless there is reason to differ with it. One can understand if there are some genuine administrative difficulties for not considering options given by Government servant, in that event, rejection of options given by the Government servant may not be interfered with. However, in the present case absolutely no such reason or ground is forthcoming so as to deny at least one option out of ten options given by the Applicant which were admittedly vacant.

8. The Applicant has explained that her parents reside at Mumbai, and therefore, they can help her to look after her baby who is eight months now. As such, difficulty of the Applicant could have been considered in appropriate manner so as to accommodate the Applicant as per options given by her as there seems to be no other administrative reason for not giving any of the options claimed by her. Indeed, in view of the policy decision of the Government by G.R. dated 09.04.2018 it was obligatory on the part of Competent Authority to consider at least one option to accommodate the Applicant as per the options given by her. In such circumstance, rejection of request for out of district transfer is in contravention of G.R. is unjust and rather arbitrary. Suffice to say, where the transfer order is found not in consonance with the policy adopted by the Government itself and found arbitrary then interference by the Tribunal is imperative.

9. For the aforesaid reasons, there is no escape from the conclusion that the impugned order is not sustainable in law and facts and Original Application deserves to be allowed. Hence the following order.

**ORDER**

- (A) Original Application is allowed.
- (B) Impugned order dated 31.05.2019 is quashed and set aside.
- (C) Respondent No.2 is directed to consider the options given by Applicant from option nos.1 to 9 as per preference given by her and shall post her at any one of the place within six weeks from today.
- (D) No order as to costs.

Sd/-

**(A.P. KURHEKAR)**  
**Member-J**

Place : Mumbai  
Date : 13.12.2019.  
Dictation taken by : VSM  
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