

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 228 OF 2024

(Subject:- Transfer)

DISTRICT:-AURANGABAD

Sushil s/o Shivram Jumde,)
Age 55 Years, Occu. Service as)
Police Inspector, Osmanpura Police Station)
Osmanpura Tq. and Dist. Aurangabad.)
Mobile No. 9923750438.) **APPLICANT**

V E R S U S

- 1. The State of Maharashtra**)
Through: The D.G.P., Maharashtra,)
Office at Shahid Bhagatsing Marg,)
Colaba, Mumbai-01.)
- 2. The Commissioner of Police,**)
Office at Mill Corner,)
Tq. Dist. Aurangabad 431001.)
- 3. The Election Commissioner of India,**)
Nirvachan Sadan, Ashoka Road,)
New Delhi- 110001.)
- 4. The Chief Election Officer,**)
State of Maharashtra,)
General Administration Department,)
Office at Madam Kama Marg,)
Hutatma Rajguru Chowk,)
Mumbai 400001.) **RESPONDENTS**

APPEARANCE : Shri P.M. Nagargoje, learned counsel
for the applicant.
: Shri M.B. Bharaswadkar, learned Chief
Presenting Officer for the respondent
authorities.
: Shri Alok Sharma, learned counsel for
respondent No.3 i.e. Election
Commission of India.

CORAM : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

DATE : **21.03.2024.**

ORAL - ORDER

Heard Shri P.M. Nagargoje, learned counsel for the applicant, Shri M.B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities and Shri Alok Sharma, learned counsel for respondent No.3 i.e. Election Commission of India finally with consent at admission stage.

2. By way of this Original Application the applicant is challenging the transfer order dated 26.02.2024. Learned counsel for the applicant submits that the applicant is working as a Police Inspector in Ch. Sambhajinagar City and by impugned order he has been transferred to Nashik City.

3. Learned counsel for the applicant submits that by order dated 09.12.2022, the applicant came to be transferred from B.D.S. Squad Aurangabad to Aurangabad City. Learned counsel for the applicant submits that this particular B.D.S. Squad branch concern with the Dog Squad and Bomb Squad. The applicant has worked in the said squad for a long period and for the first time by order dated 09.12.2022, he was given

executive post i.e. in Osmanpura Police Station, Ch. Sambhajinagar City. Learned counsel for the applicant submits that by way of impugned order dated 26.02.2024, the applicant came to be transferred to Nashik City ignoring the long tenure of the applicant attached to Dog Squad and Bomb Squad. Learned counsel for the applicant submits that there is a discrimination made by the respondent authorities by not transferring one P.I. who is working in Ch. Sambhajinagar City from the year 2018, but the applicant came to be transferred.

4. Learned C.P.O. submits that the applicant is working in Ch. Sambhajinagar since 01.06.2019 and he had worked at BDDS from 01.06.2019 to 10.12.2022. Thereafter he was posted to Police Control Room from 11.12.2022 to 12.12.2022 and thereafter performed his duty at Vedant Nagar and Control Room and transferred at Police Station, Osmanpura. However, learned C.P.O. submits that the applicant has completed three years in this district during last 4 years and as such paragraph No.3 of the directives issued by the Election Commission of India in the communicated dated 21.12.2023 squarely applies to the case of the applicant since the applicant was working as a Police

Inspector at Osmanpura Police Station and connected directly with the election as per clause No. 5.3 of the said communication dated 21.12.2023. Learned C.P.O. submits that the Original Application is liable to be dismissed.

5. The directives issued by the Election Commission of India by way of communication dated 21.12.2023 are important, especially, paragraph No.3 of the said communication which reads as under:-

“3. Hence, the Commissioner has decided that no office connected directly with elections shall be allowed to continue in the present district (revenue district) of posting:-

- (i) if she/he is posted in her/his home district.**
- (ii) if she/he has completed three years in that district during last four (4) years or would be completing 3 years on or before 30th June, 2024**

While calculating the period of three years, promotion to a post within the district is to be counted.

6. In view of said paragraph No.3, the Election Commission of India has decided that no officer connected directly with elections shall be allowed to continue in the present district (revenue district) of posting in terms of two conditions as detailed in clause Nos. (i) & (ii) of paragraph No.3. In my considered opinion, in terms of para No.3, the

basic condition is that the officer connected directly with the elections if posted in his home district or if he has completed three years in that district during last four years, is liable to be transferred.

7. In the instant case the applicant being posted at Osmanpura, Ch. Sambhajinagar City, is directly connected with the elections in terms of paragraph No.5.3 of the said communication issued by the Election Commission of India dated 21.12.2023.

8. So far as the discrimination as pointed out by learned counsel for the applicant is concerned, the said police officer is not impleaded as party respondent to this Original Application and no details have been placed before this Tribunal about his tenure in Ch. Sambhajinagar City. It is for the department to take appropriate action in case if his name is not included in the transfer list.

9. In view of above discussion, I find no substance in the Original Application and the same is liable to be dismissed. Hence, the following order:-

ORDER

(A) The Original Application is hereby dismissed.

- (B) In the circumstances there shall be no order as to costs.
- (C) The Original Application is accordingly disposed of.

MEMBER (J)

Place:-Aurangabad
Date : 21.03.2024
SAS O.A. 228/2024(S.B.) Transfer