

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**ORIGINAL APPLICATION NO.334 OF 2024
WITH
ORIGINAL APPPLICATION NO.347 OF 2024**

Shri Sangram A. Shewale & Ors.)
Shri V.J. Mandavdhare & Ors.)...**Applicants**

Versus

1. The State of Maharashtra & Ors.)...**Respondents**

Shri S.S. Dere, Advocate for Applicants.

Shri A.J. Chougule, Presenting Officer for Respondents.

CORAM : Debashish Chakrabarty, Member-A

DATE : 14.03.2024

ORDER

1. The learned Advocate for Applicants stated that Applicants who belong to cadre of 'Police Inspectors' had been posted to establishment of Commissioner of Police, Pimpri-Chinchwad by Transfer Order dated 30.01.2024 of 'DGP, Maharashtra State' which had been issued as per directions in Election Commission of India letter dated 21-12-2023 as they all had completed their Normal Tenures in establishment of 'Commissioner of Police, Nagpur'.

2. The learned Advocate for Applicants thereupon stated that Applicants are now aggrieved by new Transfer Order dated 04-03-2024 of 'DGP, Maharashtra State' by which they have been brought back to their earlier posts in establishment of 'Commissioner of Police, Nagpur' and

seek 'Interim Relief' to be permitted to continue working on posts of 'Police Inspectors' in establishment of 'Commissioner of Police, Pimpri-Chinchwad' as per earlier Transfer Order dated 30.01.2024 of 'DGP, Maharashtra State'.

3. The learned PO alongwith Law Officer present on behalf of 'DGP, Maharashtra State' emphatically oppose grant of any 'Interim Relief' to Applicants; as new Transfer Order dated 04-03-2024 of 'DGP, Maharashtra State' has been issued for stringent implementation of directions in Election Commission of India letter dated 21-12-2023 read with clarifications dated 19-01-2024 and 24-01-2024 especially in respect of all those Police Officers who on 21.12.2023 were serving in (a) 'Home Districts', (b) 'Functional Departments'.

4. The earlier Transfer Order dated 30.01.2024 of 'DGP, Maharashtra State' and those of Commissioner of Police, Pune dated 30.01.2024 and Commissioner of Police, Pimpri-Chinchwad dated 30.01.2024 & other 'Transfer Orders' of Police Inspectors were scrutinized individually in review meeting held on 20-01-2024 by 'Additional Chief Secretary and Chief Electoral Officer, Maharashtra State' with 'DGP, Maharashtra State' along with 'Commissioners of Police, Pimpri-Chinchwad, Pune', 'Thane' & 'Nashik' and 'Superintendent of Police, Satara & Solapur' as per directions given in 'Para 6' of Order dated 14.02.2024 relating to hearing of (a) OA No.114 of 2024 & Ors. included in Group-I (CP, Pimpri-Chinchwad), (b) OA No.123 of 2024 & Ors. included in Group-II (CP, Pune & Thane) and (c) OA No.149 of 2024 & Ors. included in Group-III (CP, Nashik & S.P. Solapur & Satara) which have challenged transfers of 'Police Inspectors' as per Transfer Order dated 30.01.2024 of 'DGP, Maharashtra State' on grounds of inter-se discrimination due to retention of many other Police Inspectors who were required to be transferred not only out of their 'Police Establishments' but even out of 'Revenue District' and 'Parliamentary Constituency' but were retained by giving them lateral transfers to posts in 'Functional Departments' within

the same 'Police Establishments' although they had completed tenures of 3 years in last 4 Years or were serving in 'Home Districts' resulting in blatant contravention of directions in Election Commission of India letter dated 21-12-2023 read with clarifications dated 19-01-2024 and 24-01-2024.

5. The 'Additional Chief Secretary and Chief Electoral Officers, Maharashtra State' thereupon had issued instructions to 'DGP, Maharashtra State' for stringent implementation of directions in Election Commission of India letter dated 21-12-2023. The new Transfer Order dated 04-03-2024 of 'DGP, Maharashtra State' is outcome of this elaborate exercise for uncompromised implementation in letter and spirit of directions in Election Commission of India letter dated 21-12-2023 and clarifications dated 19-01-2024 and 24-01-2024 so as to achieve the sole objective of holding free and fair 'General Elections to Lok Sabha 2024'. The entire exercise had been necessitated because the earlier Transfer Order dated 30-01-2024 of 'DGP, Maharashtra State' and those of Commissioner of Police, Pune dated 30.01.2024 and Commissioner of Police, Pimpri-Chinchwad dated 30.01.2024 & as well as other 'Transfer Orders' of 'Police Inspectors' came to be issued without adequate diligence and comprehensive understanding of the directions especially of 'Clause' relating to 'Criteria' in 'Para 3(i) & Para 3(ii)', its 'Applicability' in 'Para 5.3(i)' and importantly now observance of provisions of 'Para 8' of Election Commission of India letter dated 21.12.2023 which required consultation and concurrence to all proposals for transfers of incoming 'Police Inspectors' from 'Additional Chief Secretary and Chief Electoral Officer, Maharashtra State'. The deviations which had thus occurred due to earlier Transfer Order dated 30.01.2024 of 'DGP, Maharashtra State' became evident from outcomes summarized and submitted by 'Additional Chief Secretary & Chief Electoral Officer, Maharashtra State' on 5-3-2024 who reported that out of total 226 'Transfer Orders' of 'Police Inspectors' which were reviewed (i) 105 'Transfer Orders' were required to be 'Modified/Changed', (ii) 56 'Transfer Orders' were not

required to be 'Modified/Changed', (iii) 65 'Transfer Orders' which were related to 'Functional Posts' and 'Other Criteria' were given 'No Remarks'.

6. The case of Applicants in OA No.334/2024 and OA No.347/2024 have to be viewed from the entire perspective of all other transfers of 'Police Inspectors' who were posted out by Transfer Order dated 30.01.2024 of 'DGP, Maharashtra State' but had resulted in invidious grievances as they happened due to flexible implementation of directions in Election Commission of India letter dated 21-12-2023. The new Transfer Order dated 04.03.2024 of 'DGP, Maharashtra State' would naturally result in consequential grievance for other set of 'Police Inspectors' as they did not have any grievance at the time of earlier Transfer Orders of 30.01.2024 of 'DGP, Maharashtra State'. In this context, it would be necessary to refer to contextual made by Hon'ble Bombay High Court in Judgment dated 4th April, 2018 in **Writ Petition No.9499 of 2016 with other Writ Petitions (Smt. Jyoti Hanuman Patil & Ors. Vs. The Principal Secretary (Revenue) & Ors.)** which dealt with the issue of transfers of 'Government Servants' in relation to directions issued by 'Election Commission of India' and 'State Election Commission' against the backdrop of provisions of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'.

7. The Hon'ble Bombay High Court in judgment dated 4th April, 2018 in Writ Petition No.9495 of 2016 has made pertinent observations which relate directly to the nature of grievances of Applicants which have resulted from uncompromised and stringent implementation of directions in Election Commission of India letter dated 21.12.2023 and clarifications dated 19.01.2024 and 24.01.2024 with regard to 'General Elections of Lok Sabha 2024'. The contents of Paragraphs Nos.9 to 11 of Hon'ble Bombay High Court in judgment dated 4th April, 2018 in Writ Petition No.9495 of 2016 are thus reproduced below.

“9. The provisions under Article 324 of the Constitution refers to superintendence, direction and control of elections to be vested in an Election Commission. Such corresponding powers are conferred on the State Election Commission of the State of Maharashtra. We find that for holding free and fair elections, State Election Commission had issued these directions. During the course of hearing, we are informed that many Revenue Officers are posted in the native districts. This aspect needs to be reconsidered by the State Government for effective and fair administration of the State of Maharashtra.

10. It is likely that in some cases, some inconvenience could be caused to the employees who had been transferred due to holding of elections in a particular district or local area, but keeping in view the larger public interest, if the State Election Commission had taken a decision, the State Government would implement the same keeping in view constitutional intent and spirit and for holding free and fair elections. It is informed that in the State of Maharashtra, election process relating to elections of Corporations, Councils, Panchayats, Zilla Parishad, Village Panchayat is already set in motion.

11. The State Government and the State Election Commission are free to contemplate on the issue of transfer of officers keeping in view various aspects for consideration and frame a proper policy for future with sole objective of holding free and fair election.”

8. The prayers of Applicants for grant of ‘Interim Relief’ therefore cannot be considered at this stage as it is the overall responsibility of ‘DGP, Maharashtra State’ to make all necessary arrangements relating to ‘Police Administration’ regarding conduct of free and fair ‘General Elections of Lok Sabha 2024’ by undertaking time bound implementation in both letter and spirit of directions in Election Commission of India letter dated 21.12.2023 and clarifications dated 19.01.2024 and 24.01.2024.

9. The learned Advocate for Applicants had submitted copy of Order in OA Nos.208/2024 to 211/2024 of ‘MAT, Nagpur Bench’ dated 06.03.2024 by which ‘Interim Relief’ has been granted to Applicants therein who had grievances about implementation of new Transfer Order dated 04.03.2024 of ‘DGP, Maharashtra State’. However, all relevant facts relating to transfers of ‘Police Inspectors’ by earlier ‘Transfer Order’

dated 30.01.2024 of 'DGP, Maharashtra State' and subsequent 'Transfer Order' dated 04.03.2024 of 'DGP, Maharashtra State' dated 04.03.2024 may not have been placed for due consideration of MAT, Nagpur Bench at the time of hearing of OA Nos. 208/2024 to 211/2024 on 06.03.2024. Thus, considering the specific circumstances in which the new Transfer Order dated 04.03.2024 of 'DGP, Maharashtra State' came to be issued; no 'Interim Relief' can be granted to Applicants. However, it is also necessary to provide adequate opportunity to Applicants to convey preferably by next date if they desire that OA No.334/2024 and OA No.347/2024 be heard subsequently on merit as per the provisions of law under 'Section 22N' of 'Maharashtra Police Act 1951' with consideration of 'Administrative Guidelines' about transfers of 'Police Officers' which have been issued by Home Department of Government of Maharashtra.

Sd/-
(DEBASHISH CHAKRABARTY)
Member-A

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