

O.A. No. 457 of 2020 (SB)

(N.M. Bhagde Vs. State of Mah. & Ors.)

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 16.10.2020

Heard Shri S.P. Palshikar, Id. counsel for the applicant, Shri P.N. Warjurkar, Id. P.O. for R-1&2 and Shri D.M. Kale, Id. counsel for R-3.

2. The Id. P.O. has filed letter dated 16/10/2020 received from the Under Secretary, Food, Civil Supply and Consumer Protection Department, State of Maharashtra. It is taken on record.

3. The matter came before this Bench on 31/08/2020 and at that time it was fact that the applicant was on medical leave and therefore submission was made that as the applicant was on medical leave, there was no question to relieve the applicant. The learned P.O. submitted that in the transfer order Annex-A-4 it is observed that the transferred Officer was relieved from the post. In this regard, it is necessary to go through the relevant provisions under Rules 29,30 & 31 of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981. The Rule 31 says that except as otherwise provided in the rules that the charge of the post must be made over at the headquarters, both the relieving and relieved Government

servants being present. The Clause nos. (a), (b), (c) & (d) are exception. After reading Clause (b), it seems that for special reasons recorded in the order and where there is a urgency of public nature only then the Competent Authority may permit such charge to be made over otherwise. Similarly, in Clause (c) says that in exceptional circumstances after recording the reasons, the Competent Authority may permit the charge of a post to be made over in the absence of the relieved Government servant. In the present order Annex-A-4, it is nowhere mentioned what were the special circumstances or reasons for urgently relieving the applicant, therefore, apparently prima facie it can be said that the order relieving the applicant is contrary to the provisions of Rule 31 of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981. There is no dispute that the transfer of the applicant is premature, no reason is mentioned why there was urgency to transfer the applicant. In the transfer order it is mentioned that the order was passed under Section 4 (1), (2) & (3) of the Transfers Act, 2005. It is important to note that this order was not passed under Sub Section 4 or under Sub Section 5. Under these circumstances, prima facie the impugned order of transfer is bad in law. In

spite of repeated chances, both the respondents have not filed their reply. Under these circumstances, submission is made by the learned P.O. that the concerned Secretary is on leave and after his returned, reply would be filed. In my opinion, this is a fit case to direct the parties to maintain status-quo ante, i.e., before passing of the transfer order Annex-A-4. The respondents are directed to comply this order within one week.

For reply of respondents **S.O.**
22/10/2020.

Steno copy be supplied.

Member (J)

dnk.

O.A. Nos. 445,446,447,448,449,450 & 451 of
2020 **(SB)**

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 16.10.2020

Heard Shri N.R. Saboo, Id. counsel for
the applicants and Shri S.A. Sainis, Id. P.O.
and other Id. P.Os. for R-1 to 3 and none for
other respondents.

Closed for orders.

Member (J)

dnk.

(SB)

**Coram : Hon. Shri A.D. Karanjkar,
Member (J).**

Dated : 16.10.2020

**O.A.Nos. 388, 389,390,391,392, 393,
394,395,396, 397 & 398 of 2020**

Heard Shri N.R. Saboo, Id. counsel for the applicants and Shri P.N. Warjurkar, Id. P.O. and other Id. P.O. for R-1&2 and Shri G.N. Khanzode, Id. counsel for R-3 (in O.A 398/2020) and none for other respondents in other O.As.

As there are some corrections required, therefore, the leaned counsel for the applicants is directed to examine the synopsis, pleadings and the transfer orders and make the necessary corrections till Monday.

S.O. 19/10/2020 (PH).

Member (J)

dnk.

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O.A. 228/2019 (D.B.)

**Coram: Shri Shree Bhagwan,
Vice-Chairman and
Shri A.D. Karanjkar,
Member(J)**

Dated : 16/10/2020.

C.A. 249/2020 -

Heard Shri G.M. Shitut, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

For the reasons stated in the application, the C.A.No. 249/2020 is allowed.

O.A.228/2019 -

Heard Shri G.M. Shitut, Id. counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

The O.A. stands disposed of as withdrawn. No order as to costs.

Steno copy be provided.

Member (J)
Chairman

Vice-

dnk.

