

**BEFORE THE HON'BLE MAHARASHTRA ADMINISTRATIVE
TRIBUNAL MUMBAI**

CONTEMPT APPLICATION NO. OF 2024

IN

ORIGINAL APPLICATION NO. 289 OF 2024

DISTRICT: PUNE

Avinash Balaso Dhame and 1 other

... **APPLICANTS**

AND


Rashmi Shukla,
The DGP of Maharashtra & others

... **RESPONDENTS**

INDEX

Sr. No.	Particulars	ANNEX	Page No.
1.	Memo of Contempt application.	--	To 10
2.	List of documents	--	To 11
3.	The copy of the judgment and order dated 19.07.2024 passed by this Hon'ble Tribunal in OA No. 289/2024.	"A-1"	To 12 31
4.	The copy of the legal Notice dated 18.08.2024 along with net tracking report.	"A-2" Colly	To 32 38
Last Page:			38

Date: 3 /09/2024
Place: Mumbai


(Prashant M. Nagargoje)
Vishnu B. Narke
Advocates of the Applicants

10

**BEFORE THE HON'BLE MAHARASHTRA ADMINISTRATIVE
TRIBUNAL MUMBAI**

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SYNOPSIS

SR. No.	Date	Particulars of events.
1.	19.07.2024 OA No. 289/2024	By way of this contempt application the applicants seeking to punish respondent No. 1 and 2 / contemnors for willful and intentional disobedience of Judgment and order dated 19.07.2024 passed by this Hon'ble Tribunal in O.A. No.289/2024.
2.		This Hon'ble Tribunal in its operative order directed respondent No. 1 and 2 to repost applicants at their original post / non-executive post as on date of impugned transfer.
3.		Immediately after judgment and order dated 19.07.2024 the applicants forwarded representations along with copy of judgment and order dated 19.07.2024 passed in OA No. 289/2024

		to comply the direction given by the Hon'ble Tribunal Mumbai.
5.	18.08.2024	Again, applicants forwarded legal Notice dated 18.08.2024 to the respondents No. 1 and 2 contemnors to comply with the order by pointing out that contempt has been committed by them. Still, till today there is no action taken by respondents / contemnors to obey the order passed by this Hon'ble Tribunal.
6.	--	Hence, this contempt application.

POINTS FOR CONSIDERATION:


- (i) Whether the respondent No. 1 and 2 intentionally and willfully had disobeyed to comply the directions issued by this Hon'ble Tribunal vide Judgment and order dated 19.07.2024 passed in O.A. No. 289/2024.
- (ii) Whether the respondent No.1 and 2 required to be punished as provided under Contempt of Courts Act by initiating process against them immediately.

ACT AND RULES TO BE REFERRED:

1. Administrative Tribunal Act
2. Contempt of Courts Act, 1971

AUTHORITIES TO BE CITED:

Date: 03/09/2024
Place: Mumbai


(Prashant M. Nagargoje)
Vishnu B. Narke
Advocates of the Applicants

**BEFORE THE HON'BLE MAHARASHTRA ADMINISTRATIVE
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CONTEMPT APPLICATION NO. _____ OF 2024

IN

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DISTRICT: PUNE

BETWEEN

Avinash Balaso Dhame and 1 other

... **APPLICANT**

AND

Rashmi Shukla,
The DGP of Maharashtra & others

... **RESPONDENTS**

I) PARTICULARS OF THE APPLICANT:

1. Avinash Balaso Dhame
Age – 36 years, Occ: PSI
R/o: At Naruli Post- Supe
Tq. Baramati Dist. Pune
Mob- 9405262074

BEFORE ME

SHIVKUMAR B. PATIL
Notary Govt. of India
Reg. No. 6724

2. Shridhar Shamrao Khadake
Age – 40 years, Occ: PSI
R/o: Ahilyadevi Chouk Khatikgalli
Baramati Dist. Pune
Mob- 9823991682

II) PARTICULARS OF THE RESPONDENTS:

1. **Rashmi Shukla,**
The DGP of Maharashtra,
Office at- Shahid Bhagatsing Marg,
Colaba Mumbai-01.
2. **Mr. Amitesh Kumar,**
The Commissioner of Police,
Commissioner Office, Sadhu Vaswani chowk,
Church Path, Agarkar Nagar, Pune, Maharashtra 411001

III) PARTICULARS OF THE RELIEF:

- a) The applicants are seeking to initiate contempt proceeding against the respondent No. 1 and 2 / contemnors as they have disobeyed the directions given by this Hon'ble Court in Original Application No. 289/2024 by order dated 19.07.2024, whereby in para No. 21 of the order dated 19.07.2024 it was directed to respondents to repost back to their earlier 'Police Establishments'.
- b) The applicants submit that, they have addressed various representations to respondent No. 1 and 2 / contemnors and

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Notary Govt. of India
Reg. No. 6724

the said representations were received by respondent No. 1 and 2 / contemnors.

- c) The applicants submit that, they have addressed legal notice dated 18.08.2024 to respondent No. 1 and 2 / contemnors. Despite legal notice respondents failed to repost the applicant at their original post nor any effective steps were taken by informing present applicants. That, as directed by this Hon'ble Tribunal the said authority did not act as per directions of this Hon'ble Tribunal, thereby committed the contempt of Court as per judgment and order dated 19.07.2024. The copy of the judgment and order dated 19.07.2024 passed by this Hon'ble Tribunal in Original Application No. 289/2024 is annexed herewith and marked at ANNEXURE A-1.

IV) FACTS OF THE CASE:

1. The applicants submit that, applicants are citizen of India and permanent resident of the address mentioned in the title clause, therefore, entitled for protection of law and provisions enshrined in the Constitution of India.

S. S. Klonale

BEFORE ME

SHIVKUMAR S. PATIL
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Reg. No. 6727

2. The applicants submit that, applicants joined duty in police force and time to time applicants were promoted considering his exemplary and good service record.
3. The applicants submit that, by way of transfer order dated 26.02.2024 they were transferred out of district from Pune, Commissionerate Area. The applicants submit that, being aggrieved by transfer order dated 26.02.2024, they have filed Original Application No. 289/2024 before this Hon'ble Tribunal Mumbai.
4. The applicants submit that, after hearing both the parties, this Hon'ble Tribunal by way of common judgment and order dated 19.07.2024 allowed the original application No. 289/2024 filed by present applicants.
5. The applicants submit that, the respondent authorities including respondent No.2 effected transfers of several Police Inspectors in connection with ensuing General Elections to the house of people (Loksabha-2024). In accordance with the guidelines of Election Commission of India letter dated 21.12.2023 specifically as mentioned in Para No.5.3 the applicant have not completed 06 years term in one district.

SSK Chaudhary

BEFORE ME
SHIVKUMAR B. PATIL
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Reg. No. 6724

6. The applicants submit that, they have relieved from Pune Commissionerate Area. The applicants submit that, at the time of their transfer they have working on non-executive post.
7. The applicants submit that, they have addressed various representations to respondent No. 1 and 2 / contemnors and the said representations were received by respondent No. 1 and 2 / contemnors.
8. The applicants submit that, they have addressed legal notice dated 18.08.2024 to respondent No. 1 and 2 / contemnors. Despite legal notice respondents failed to repost the applicants at their original post nor any effective steps were taken by informing present applicant. That, as directed by this Hon'ble Tribunal the said authority did not act as per directions of this Hon'ble Tribunal, thereby committed the contempt of Court as per judgment and order dated 19.07.2024. The copy of the legal Notice dated 18.08.2024 along with net tracking report are annexed herewith and marked at **ANNEXURE-A-2**.
9. The applicants submit that, as there were specific directions to respondents, applicants have forwarded

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BEFORE ME

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Reg. No. 6121

judgment order dated 19.07.2024 passed by this Hon'ble Tribunal by way of representation seeking reposting at his earlier post by giving representations. That, respondent No. 1 and 2 / contemnors were represented by CPO MAT Mumbai and they were aware about the direction issued by this Hon'ble Tribunal in judgment and order dated 19.07.2024 passed in OA No. 289/2024. Same was received to the respondents 1 and 2 / contemnors. That, respondent No. 1 and 2 / contemnors ignored the said representation and there is omission on the part of respondents / contemnors to decide the same till today. It also shows that, they had not paid any heed to the representation of applicants as well as order dated 19.07.2024 passed by this Hon'ble Tribunal and they failed to take positive steps by reposting applicants at their original post / non-executive post as on date of impugned transfer order.

- SS Phondale*
10. The applicants submit that, the intention of respondent No. 1 and 2 / contemnors, who are the authority to repost applicants at their respective original post / non-executive post as on date of impugned transfer order had intentionally and willfully avoided to follow order dated

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SHIVKUMAR B. PATIL
Notary Govt. of India
Reg. No. 6724

19.07.2024 wherein specific directions were issued to repost the applicants at Pune Commissionerate Area and deadline to repost applicants before **15.08.2024** is also over. And there is no stay to judgment and order dated 19.07.2024 passed in O.A. No. 289/2024.

11. The applicants submit that, respondent 1 and 2 / contemnors had willfully disobeyed the order dated 19.07.2024 and directions therein even after receipt of applicant's representation along with copy of judgment and order dated 19.07.2024 passed in O.A. No. 289/2024 had infringed the fundamental and legal right of the applicants.
12. The applicants submit that, there is gross contempt of this Hon'ble Tribunal's directions in as much as there is no ambiguity in the directions issued by this Hon'ble Tribunal. The contemnors ought to have issued appropriate orders on the next date itself in compliance of the directions of this Hon'ble' Tribunal. Therefore, going by the principles of the Judgment of this Hon'ble Tribunal and provisions of Contempt of Courts Act, the respondents / contemnors willfully disobeyed the explicit directions given by this Hon'ble Tribunal.

Shivkumar B. Patil
BEFORE ME

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Reg. No. 6711

13. The applicants submit that, the respondent No.1 and 2 /
contemnors even after receiving of legal notice issued to
contemnors on 18.08.2024, still intentionally had not
complied with the order of this Hon'ble Tribunal. The
respondents blatantly avoided implementing the order of
this Hon'ble Tribunal. The utter disregard on part of the
respondents /contemnors had caused contempt of majesty
of this Hon'ble Tribunal and inaction of respondents /
contemnors is in violation of order dated 19.07.2024 The
applicants further say and submit that, the deliberate
omission on the part of respondents / contemnors to
perform their duties has not only caused loss to the
applicants but also resulted in lowering down the esteem of
this Hon'ble Tribunal. Therefore, appropriate action as
contemplated U/Sec.12 of the Contempt of Courts Act,
1971.

14. The applicants submit that, the Respondents failed to
comply the order passed by this Hon'ble Tribunal dated 19th
July 2024 passed in OA No. 289/2024. The Respondents for
non-implementation of the order dated 19th July 2024
amount to be contempt on the part of Respondents as the


SS Thondake
BEFORE ME


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Reg. No. 6724

Respondents failed to comply with the order and directions, therefore, this Hon'ble Tribunal is required to initiate contempt action against the Respondents, hence this Contempt Application.


15. THEREFORE, APPLICANT PRAYS THAT:

- a) This Hon'ble Court may kindly initiate Contempt Proceedings against the respondents No. 1 and 2 / contemnors and punish them as provided U/Sec. 12 of the Contempt of Court Act, 1971 for willful and intentional disobedience of the directions given by this Hon'ble Tribunal in Original Application No. 289/2024 vide order dated 19.07.2024 within the stipulated time granted by this Hon'ble Tribunal.
- b) Cost of present application be provided for.
- c) Any other suitable and equitable reliefs may kindly be granted in favour of the Applicants.

 Date: 3 /09/2024
Place: Mumbai.


Prashant M. Nagargoje
Vishnu B. Narke
Advocate for applicant

BEFORE ME


SHIVKUMAR B. PATIL
Notary Govt. of India
Reg. No. 6724

VERIFICATION

I, Shridhar Shamrao Khadake Age - 40 years, Occ: PSI R/o: Ahilyadevi Chouk Khatikgalli Baramati Dist. Pune Mob- 9823991682, do hereby state on behalf myself and applicant No. 1 on oath and solemn affirmation that, all contents and paras of this contempt application & prayers made therein are true and correct to the best of my personal knowledge, information and belief. All contents are read over and explained in Marathi language to me by my Advocate.

8 Hence, it is signed and verified on this 03rd day of September 2024 at Chh. Sambhajinagar.

Identified and
Explained by

DEPONENT

Chh. A

Shridhar Khadake
(Shridhar Shamrao Khadake)

Prashant M. Nagargoje
Vishnu B. Narke
Advocates

AFFIDAVIT

Solemnly affirmed before me
by Shri/Smt. *Shridhar Shamrao Khadake*

Baramati Dist. *Pune*

Identified by *V.B. Narke*
to whom I am personally known

BEFORE ME

SHIVKUMAR BASWANTRAO PATIL
Advocate & Notary Govt. of India
Reg. No. 6724

NOTED & REGISTERED

AT SR.No. *7894* 24
THIS DOCUMENT CONTAINS
10 PAGES



Shridhar Khadake

Shridhar Khadake

BEFORE THE HON'BLE MAHARASHTRA ADMINISTRATIVE
TRIBUNAL MUMBAI.

CONTEMPT APPLICATION NO. OF 2024

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Date: 03/09/2024
Place: Mumbai


(Prashant M. Nagargoje)
Vishnu B. Narke
Advocates of the Applicants

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

O.A. NO.124 OF 2024 WITH O.A. NO.125 OF 2024 WITH
O.A. NO.150 OF 2024 TO O.A. NO.153 OF 2024 WITH
O.A. NO.298 OF 2024 TO O.A. NO.300 OF 2024 WITH
O.A. NO.318 OF 2024 WITH O.A. NO.319 OF 2024 WITH
O.A. NO.127 OF 2024 WITH O.A. NO.279 OF 2024 WITH
O.A. NO.603 OF 2024 WITH O.A. NO.277 OF 2024 WITH
O.A. NO.278 OF 2024 WITH O.A. NO.422 OF 2024 WITH
O.A. NO.452 OF 2024 WITH O.A. NO.562 OF 2024 WITH
O.A. NO.464 OF 2024

Shri K.D. Patil & Ors. (Group - 1)

.....APPLICANTS

O.A. NO.260 OF 2024 WITH O.A. NO.264 OF 2024 WITH
O.A. NO.265 OF 2024 WITH O.A. NO.266 OF 2024 WITH
O.A. NO.269 OF 2024 WITH O.A. NO.270 OF 2024 WITH
O.A. NO.283 OF 2024 WITH O.A. NO.284 OF 2024 WITH
O.A. NO.285 OF 2024 WITH
O.A. NO.287 OF 2024 TO O.A. NO.292 OF 2024 WITH
O.A. NO.310 OF 2024 WITH O.A. NO.311 OF 2024 WITH
O.A. NO.313 OF 2024 WITH O.A. NO.314 OF 2024 WITH
O.A. NO.323 OF 2024 WITH O.A. NO.324 OF 2024 WITH
O.A. NO.329 OF 2024 WITH O.A. NO.354 OF 2024 WITH
O.A. NO.367 OF 2024 WITH O.A. NO.385 OF 2024 WITH
O.A. NO.545 OF 2024 WITH
O.A. NO.555 OF 2024 TO O.A. NO.557 OF 2024 WITH
O.A. NO.328 OF 2024 WITH O.A. NO.331 OF 2024 WITH
O.A. NO.325 OF 2024 WITH O.A. NO.662 OF 2024 WITH
O.A. NO.663 OF 2024 WITH O.A. NO.701 OF 2024 WITH
O.A. NO.330 OF 2024 WITH M.A. NO.160 OF 2024 WITH
O.A. NO.703 OF 2024 TO O.A. NO.595 OF 2024 WITH

A.K. Padekar & Ors. (Group - 2)

.....APPLICANTS

O.A. NO.371 OF 2024 TO O.A. NO.378 OF 2024 WITH
O.A. NO.446 OF 2024

V.V. Adagale (Group - 3)

.....APPLICANTS

13

**O.A. NO.705 OF 2024 WITH O.A. NO.706 OF 2024 WITH
O.A. NO.724 OF 2024**

B.H. Ahilwale (Group - 4)

.....APPLICANTS

Versus

The State of Maharashtra & Ors.

.....RESPONDENTS

SUBJECT: TRANSFER

Smt. Punam Mahajan, Shri R.G. Panchal and Shri A.M. Misal, learned Advocate for the Applicant in '**Group - 1**'

Shri M.D. Lonkar, Shri S.S. Dere & Shri K.R. Jagdale learned Advocates for Applicants, Shri P.M. Nagaroje, learned Advocate for Applicant No.1 in O.A. 283/2024 and Applicant No.5 in O.A. No. 287/2024 through 'Video-Conference' in '**Group - 2**'

Smt. P.G. Kotkar, learned Advocate for the Applicants in '**Group - 3**'

Shri P.M. Nagaroje, learned Advocate for Applicant through 'Video-Conference' in '**Group - 4**'

Ms. S.P. Manchekar, learned Chief Presenting Officer for Respondents alongwith Shri A.J. Chougule, Shri A.D. Gugale, Smt Archana B.K., Shri D.R. Patil and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents in '**Group - 1 to Group - 4**'.

CORAM : DEBASHISH CHAKRABARTY, MEMBER (A)

DATE : 19.07.2024.

JUDGMENT

1. Heard Smt. Punam Mahajan, Shri R.G. Panchal and Shri A.M. Misal, learned Advocate for the Applicant in '**Group - 1**', Shri M.D. Lonkar, Shri S.S. Dere & Shri K.R. Jagdale learned Advocates for Applicants, Shri P.M. Nagaroje, learned Advocate for Applicant No.1 in O.A. 283/2024 and Applicant No.5 in O.A. No. 287/2024 through 'Video-Conference' in '**Group - 2**', Smt. P.G. Kotkar, learned Advocate for the Applicants in '**Group - 3**', Shri P.M. Nagaroje, learned Advocate for Applicant through 'Video-Conference' in '**Group - 4**' and Ms. S.P.

14

Manchekar, learned Chief Presenting Officer for Respondents alongwith Shri A.J. Chougule, Shri A.D. Gugale, Smt Archana B.K., Shri D.R. Patil and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents in '**Group - 1 to Group - 4**'.

2. The 'Group of O.A's' have been filed to challenge large scale 'Transfer Orders' of 'Police Personnel' issued just prior to 'General Elections Lok Sabha: 2024' as per directions in (a) Election Commission of India letter dated 21.12.2023 (b) Election Commission of India letter dated 19.01.2024 (c) Election Commission of India letter dated 24.01.2024. The Applicants in these 'Groups of O.A's' are 'Police Personnel' in ranks of 'P.I., A.P.I. & P.S.I.' who have been transferred only on grounds of (a) 'Serving in Home District' and/or (b) 'Completion of 3 years tenure during last 4 Years in 'Revenue District'.

(A) Transfer Orders

1. The 'P.E.B.-1' was expected to extensively deliberate and comprehensively address issues relating to large scale 'Mid-Term' & 'Mid-Tenure' transfers of 'Police Personnel' in ranks of 'P.I., A.P.I., & P.S.I.' as recorded in explanatory observations made in Order dated 30.04,2024 in O.A. No.260/2024 & Others.

2. The 'P.E.B.-1' constituted under 'Section 22(C)' of 'The Maharashtra Police Act, 1951' had met on 28.06.2024. Thus approved 'Minutes of Meeting' were to be made available within reasonable time; so as to facilitate expeditious redressal of grievances of 'Police Personnel' serving in ranks of 'P.I., A.P.I. & P.S.I.' who have challenged their 'Transfer Orders' under 'Section 19' of 'The Administrative Tribunal Act, 1985'.

3. The 'Joint Secretary' of 'Home Department' was therefore directed to remain present on 19.07.2024 and submit 'Minutes of Meeting' of

(15)

'P.E.B.-1' held on 28.06.2024. However he informed on 19.07.2024 that 'Minutes of Meeting' of 'P.E.B.-1' were yet to be approved by 'Highest Competent Authority'. Further on query 'Joint Secretary' of 'Home Department' admitted that 'P.E.B.-1' in its meeting held on 28.06.2024 could not arrive at judicious conclusions in respect of few issues recorded in detailed observations made in Order dated 30.04.2024. The 'Joint Secretary' of 'Home Department' thereupon mentioned that it would be necessary to hold another meeting of 'P.E.B.-1' alongwith officers representing 'Principal Secretary and Chief Electoral Officer, Maharashtra State'.

4. The elucidative observations recorded in Order dated 30.04.2024 were only to facilitate indepth deliberations in meeting of 'P.E.B.-1' and enable it to suggest an implementable road map for expeditious redressal of grievances of Applicants about their 'Transfers Orders issued just prior to 'General Elections Lok Sabha: 2024'. The expectation about early feedback from 'P.E.B.-1' was not exceptional given the fact that 'Police Personnel' constitute separate class of 'Government Servants' exclusively governed as they are by 'The Maharashtra Police Act 1951'. The 'P.E.B.-1' which functions at the 'Apex Level' with (a) 'Additional Chief Secretary, Home Department' as 'Chairperson' and (b) 'DGP, Maharashtra State' as 'Vice Chairperson' was therefore the appropriate forum to have such indepth deliberations against the specific backdrop of (i) 'Hon'ble Bombay High Court's' Judgment dated 07.12.2016 in Writ Petition No. 9499 of 2016 which had exhorted the 'State Government' to frame proper policy for future and (ii) 'Hon'ble Bombay High Court's' Judgment dated 04.04.2018 in Writ Petition No. 6041 of 2017 & Others which had even suggested option of re-transfer of affected 'Government Servants'.

5. The 'P.E.B.-1' did meet belatedly on 28.06.2024 as per directions in Order dated 30.04.2024 in O.A. No. 260/2024 & Others but there has been unexplained delay in confirmation of 'Minutes of Meeting'. Even

(16)

discounting the fact that 'Minutes of Meeting' of 'P.E.B.-1' have to be approved by 'Highest Competent Authority'; yet it is evident that it could have been expedited as 'P.E.B.-1' had met thereabout once again as 'Home Department' has issued few 'Transfer Orders' of 'Dy. S.P' / 'A.C.P.' on 03.07.2024. Similarly; 'D.G.P. Maharashtra State' upon holding meetings of 'P.E.B.-2' has issued large scale 'Transfer Orders' of 'P.I.' on 30.06.2024 and 'A.P.I.' & 'P.S.I' on 28.06.2024 including those based on requests even before completion of 'Normal Tenures' under 'Section 22N(1)' of 'The Maharashtra Police Act, 1951'.

6. The 'Home Department' and 'D.G.P. Maharashtra State' had been directed by Order dated 30.04.2024 to keep posts of 'P.I., A.P.I., & P.S.I' vacant in 'Functional Departments' which have been so categorised by Home Department Circular dated 16.02.2009 especially in respondent 'Police Establishments' viz (a) 'Commissioners of Police' and (b) 'Superintendents of Police'. However against backdrop of 'Orders' passed on 30.04.2024 as several fresh 'Transfer Orders' have been issued by (a) 'Home Department' for 'Dy. S.P' / 'A.C.P.' on 03.07.2024 (b) 'D.G.P. Maharashtra State' for 'P.I.' on 30.06.2024 (c) 'D.G.P. Maharashtra State' for 'A.P.I.' & 'P.S.I' on 28.06.2024 the 'Law Officer' from the office of 'D.G.P. Maharashtra State' was informed to submit 'Tabular Chart' of 'Vacant Posts' of 'Police Personnel' in ranks of 'P.I.', 'A.P.I.' & 'P.S.I.' in respondent 'Police Establishments' Viz (a) 'Commissioners of Police' and (b) 'Superintendents of Police' which were to be kept vacant as per 'Orders' dated 30.04.2024.

7. The 'Law Officer' from office of 'D.G.P. Maharashtra State' who was present on 16.07.2024 has submitted the following 'Tabular Chart' about 'Vacant Posts' of 'Police Personnel' in ranks of 'P.I.', 'A.P.I.' & 'P.S.I.' as on 12.07.2024:-

(17)

"Tabular Chart"

दिनांक 12/07/2024

मा. न्यायाधिकरणाच्या दिनांक ३०/०४/२०२४ च्या आदेशाप्रमाणे ठेवण्यात आलेली रिक्त पदे

अ.क्र.	पदनाम	दिनांक 30/04/2024 च्या आदेशातील मुळ अर्ज व अधिकारी		घटक	रिक्त ठेवण्यात आलेली पदे		एकुण
		मुळ अर्ज	अधिकारी		Functional	Nonfunctional	
१	२	३	४	५	६	७	८
१	पोलीस निरीक्षक	३	३	नाशिक शहर	३	०	३
२	सहायक पोलीस निरीक्षक	७	२३	नाशिक शहर	१०	७	१७
				पिंपरी चिंचवड	२७	-१	२६
				पुणे शहर	७४	-३१	४३
३	पोलीस उप निरीक्षक	१६	३६	नाशिक शहर	१५८	-६१	१४७
				पिंपरी चिंचवड	४३	४	४७
				पुणे शहर	७	२७	३४

The 'Vacant Posts' of 'P.I., A.P.I. & P.S.I.' in above 'Tabular Chart' have been shown in both categories of 'Functional Posts' and 'Non Functional Posts' but only in respect of establishments of (i) 'Commissioner of Police, Nashik' (ii) 'Commissioner of Police, Pimpri Chinchwad' (iii) 'Commissioner of Police, Pune'. However, information of such 'Vacant Posts' of 'P.I.', 'A.P.I.', and 'P.S.I.' in respondent establishments of (i) 'Commissioner of Police, Thane' (ii) 'Special I.G.P. Kolhapur Range' (iii) 'S.P., Pune (Rural)' (iv) 'S.P., Satara' were also expected to be included in 'Tabular Chart'. Nonetheless, it must be fairly believed that 'D.G.P., Maharashtra State' would have kept adequate 'Vacant Posts' of 'P.I.', 'A.P.I.', 'P.S.I.' even in other respondent establishments of (i) 'Commissioner of Police, Thane' (ii) 'Special I.G.P. Kolhapur Range' (iii) 'S.P., Pune (Rural)' (iv) 'S.P., Satara'.

8. The 'Mid-Term' & 'Mid-Tenure' transfers of 'Police Personnel' in rank of 'P.I., A.P.I. & P.S.I.' were effected as per directions in (a) Election Commission of India letter dated 21.12.2023 (b) Election Commission of

India letter dated 19.01.2024 (c) Election Commission of India letter dated 24.01.2024 considering importance of ensuring 'Free and Fair' conduct of 'General Elections Lok Sabha: 2024'. Now as 'General Elections Lok Sabha: 2024' are over the challenge to 'Transfer Orders' by Applicants who are 'Police Personnel' in ranks of 'P.I., A.P.I & P.S.I.' have to be decided based on specificity of criteria laid down by law as encapsulated under 'Section 22N(1)' of 'The Maharashtra Police Act, 1951' which in turn not only has foundations in assurance to 'Police Personnel' of 'Normal Tenure' on any particular 'Post' which is defined in 'Section 2(11B)' of 'The Maharashtra Police Act 1951' but also stands interwoven around the rank held by such 'Police Personnel' and category of 'Police Establishment' viz (i) 'Commissioner of Police' or (ii) 'Superintendent of Police' or (iii) 'Specialized Agency'.

9. The extant provisions of 'Section 22N(1)' of 'The Maharashtra Police Act, 1951' does not include any restrictive criteria including of 'Home District' which makes 'Police Personnel' ineligible to hold any particular 'Post' in 'Police Establishments' located in their 'Home District'; although it came to be widely invoked to effect large scale 'Mid-Term' & 'Mid-Tenure' transfer of 'Police Personnel' in ranks of 'P.I., A.P.I. & P.S.I' as per directions in (a) Election Commission of India letter dated 21.12.2023 (b) Election Commission of India letter dated 18.01.2024 (c) Election Commission of India letter dated 24.01.2024.

10. The 'Statutory Powers' vested under 'Section 22C' to 'Section 22J-4' of 'The Maharashtra Police Act, 1951' were indeed invoked as 'Transfer Orders' of 'Police Personnel' in ranks of 'P.I., A.P.I. & P.S.I' were undoubtedly issued based on recommendations made by 'P.E.B.- I' or 'P.E.B. - II' or 'P.E.B.'s' at level of (i) 'Commissioners of Police' or (ii) 'Special I.G.Ps.' and (iii) 'Superintendents of Police' and with approval of respective 'Competent Authority' under 'Section 22N(1)' of 'The Maharashtra Police Act, 1951' but as elucidated above the large scale 'Mid-Term' & 'Mid-Tenure' transfer of 'Police Personnel' in ranks of 'P.I.,

A.P.I. & P.S.I.' did not achieve perceptible degree of congruity with extant provisions of 'Section 22N(1)' of 'The Maharashtra Police Act 1951'.

11. The 'Section 22N(1)' of 'The Maharashtra Police Act 1951' allows aggregation of tenures of 'Police Personnel' in ranks of 'P.I. A.P.I. & P.S.I.' upto '4 Years' at 'District Level' and upto '8 Years' at 'Range Level' and '6 Years' or '8 Years' in establishments of 'Commissioners of Police' alongwith an assurance of 'Normal Tenures' on any particular 'Post' as specified under 'Section 22N(1)' of 'The Maharashtra Police Act, 1951'; notwithstanding the fact that 'Police Personnel' can still be transferred under its 'Proviso Clause' by the 'State Government' or in 'Exceptional Cases' either in 'Public Interest' or on account of 'Administrative Exigencies' by 'Competent Authority' as designated under 'Section 22N(2)' of 'The Maharashtra Police Act, 1951'. The provisions of law do not envisage universal curtailment of 'Normal Tenures' under 'Section 22 (N)(2)'. Further an eventuality which may arise only once in 5 Years during elections conducted by 'Election Commission of India' or 'State Election Commission' cannot be construed as 'Exceptional Cases'. Such large scale 'Med-Term' and 'Mid-Tenure' transfers of 'Police Personnel' in ranks of 'P.I. A.P.I. & P.S.I.' on grounds of serving in 'Home Districts' and / or on completion of tenures of '3 Years' during last '4 Years' in any 'Revenue District'; therefore become rather vulnerable as on one hand ineligibility to hold any post in 'Home District' is not envisaged by law, while on other hand law does allow aggregations of tenures upto '4 Years' at 'District Level' and upto '8 Years' at 'Range Level' and '6 Years' or '8 Years' in establishments of 'Commissioners of Police'. Therefore such 'Transfer Orders' of 'Police Personnel' in rank of 'P.I., A.P.I. & P.S.I.' must to be held to be perishable since they cannot have lasting effect even after conduct of elections by 'Election Commission of India' or 'State Election Commission'. The 'Transfer Orders' of 'Police Personnel' in ranks of 'P.I., A.P.I & P.S.I.' which are effected only to ensure 'Free and Fair' conduct of elections by 'Election Commission of India' or 'State



Election Commission' if allowed to survive would contribute to flagrant impermissible contravention of law under 'The Maharashtra Police Act, 1951'.

12. The 'Additional Chief Secretary, Home Department' and 'D.G.P., Maharashtra State' also would not consent to such egregious violation of law under 'The Maharashtra Police Act, 1951' which is the 'State Statute' to exclusively governs 'Transfer & Postings' of 'Police Personnel' through instruments of 'Section 22N(1)' & 'Section 22N(2)'. The 'Additional Chief Secretary, Home Department' and 'D.G.P., Maharashtra State' and all 'Heads' of 'P.E.B.'s.' are duty bound to uphold provisions of law including rules and regulations as has been adjured by 'Sur generis' provision of 'Section 22K' of 'The Maharashtra Police Act 1951'. Hence it was expected that these substantive aspects of law would not only be deeply acknowledged and expeditiously deliberated but even acted upon with alacrity by 'P.E.B.-1' as it stands perched at 'Apex Level' of 'Police Administration' with expansive powers to recommend 'Policy Guidelines' not only regarding 'Transfer & Posting but significantly in respect of any 'Other Service Matters' of 'Police Personnel' under provisions of 'Section 22D' of 'The Maharashtra Police Act, 1951'.

13. The **Hon'ble Bombay High Court** in its Judgment in '**Writ Petition No.3717 of 2024 dated 20.03.2024**' relating to transfer of 'I.P.S. Officer' who was serving on post of 'Spl. IGP Nashik Range, Nashik' based on directions in 'Election Commission of India letter dated 21.12.2023' has observed the following in 'Para 28' with respect of 'Mid-Term' & 'Mid-Tenure' transfers of 'Police Personnel' referred to in 'Section 2(6B)' of 'The Maharashtra Police Act, 1951'.

"28. As far as the arguments made by learned counsel for the parties based on the provisions of section 22N of the Police Act is concerned, though normal tenure of posting of a police officer at a particular place of posting is two years and thereafter he can be transferred, however, as per section 2(6B), every transfer, other than the general transfer, is a mid-term transfer and for a mid-term

transfer sub-section (2) of section 22N is to be observed. It is not a general transfer for the reason that the phrase "General Transfer" has defined in section 2(6A) to mean posting of police personnel in the police force from one post, office or department to another post, office or department in the month of April and May of every year after completion of normal tenure as mentioned in sub-section (1) of section 22N. According to section 2(6B), "Mid-term Transfer" means transfer of a police personnel in the police force other than the general transfer. Thus, even if respondent no. 1 has completed two years' tenure of posting at Nashik, his transfer cannot be termed to be general transfer, rather as per the definition clauses 2(6A) and 2(6B), it has to be treated as mid-term transfer and for resorting to mid-term transfer, requirement of sub-section (2) of section 22N is to be fulfilled. According to sub-section (2) of section 22N, mid-term transfer can be resorted to in exceptional cases in public interest and/or on account of administrative exigencies. As per the judgment of a coordinate Bench of this Court in the case of Sachin Ashok Patil (supra), once an officer is being subjected to mid-term transfer, there ought to be at least one reason of the nature referred to in the proviso to sub-section (1) or any of those in sub-section (2) of section 22N of the Police Act. Sachin Ashok Patil (supra) clearly holds that in case of absence of the conditions as given in the proviso appended to sub-section (1) of section 22N or any of those in sub-section (2) thereof, if transfer of a police officer is recommended then the purpose of the statute providing a normal tenure would be defeated merely on the ipse dixit of the Board (Police Establishment Board)."

14. The 'Mid-Term' & 'Mid-Tenure' transfers of 'Police Personnel' under 'Section 6(2B)' thus necessitates fulfilment of atleast one of the reasons referred to in 'Proviso Clause' of 'Section 22(N)(I)' or any of those in 'Section 22N(2)'. However, pertinent to note is that 'Section 22N(2)' is applicable only to 'Exceptional Cases'. Thus 'Section 22N(2)' cannot be extrapolated to effect large scale 'Mid-Term' & 'Mid-Tenure' transfers of 'Police Personnel' on grounds which are not 'intra legem' such as (a) Serving in 'Home District' and / or (b) Completion of '3 Years' tenure during last '4 Years' in 'Revenue District'. Further, 'Exceptional Cases' under 'Section 22N(2)' must be understood as those which require

(22)

exceptions to be made to what is provided in law and not be liberally interpreted as exceptions which can even be made to what is extraneous to law. Further it would be pertinent to not overlook the fact that through 'Section 22(N)(1)' and 'Section 22(N)(2)' exist independently these reside amicably under 'The Maharashtra Police Act, 1951'.

15. The extracts from the following Judgments passed by (i) 'Hon'ble Supreme Court of India' (ii) 'Hon'ble High Court of Bombay' (iii) 'Hon'ble High Court of Jharkhand' and (iv) 'Hon'ble High Court of Karnataka' are reproduced for contextual clarity about plenary powers of 'Election Commission of India' under 'Article 324' of 'Constitution of India' and nature of transient provisions of 'Section 28A' of 'The Representations of Peoples Act, 1951'.

16. The '**Hon'ble Supreme Court of India**' in its Judgement (**A.C Jose v. Sivan Paillai**) as reported in **(1984) 2 SCC 656** in Paragraph 25' has held as under:-

"25. To sum up, therefore, the legal and constitutional position is as follows:

(a) When there is no Parliamentary legislation or rule made under the said legislation, the Commission is free to pass any orders in respect of the conduct of elections.

(b) where there is an Act and express Rules made thereunder it is not open to the Commission to override the Act or the Rules and pass orders in direct disobedience to the mandate contained in the Act or the Rules. In other words, the powers of the Commission are meant to supplement rather than supplant the law (both statute and Rules) in the matter of superintendence, direction and control as provided by Art. 324,

(c) where the Act or the Rules are silent, the Commission has no doubt plenary powers under Art. 324 to give any direction in respect of the conduct of election, and

(d) where a particular direction by the Commission is submitted to the government for approval, as required by the Rules, it is not open to the Commission to go ahead with implementation of it at its own sweet will even if the approval of the Government is not given.

17. The '**Hon'ble Bombay High Court**' in its Judgment dated 04.04.2018 in **Writ Petition No. 6041 of 2017** has observed the following:-

(i) *"The petitioners and others were transferred on consideration of guidelines/directives of the State Election Commission and in view of the initiation of process of election for local authorities and since the purpose for which they were shifted before completion of their normal tenure, is already over and the process of election has come to an end long back, it would be open for the State to pass appropriate orders of transfer for reposting them at an appropriate place, in observance of the procedure prescribed under the Transfer Act."*

(ii) *"Apart from this, it also deserves to be considered that the orders of transfer have been given effect more than a year back and any interference, at this stage, would amount to displacement of several employees thereby creating difficulties in the administration. The orders of transfer are expected to be issued considering the administrative exigencies. However, as has been noted above, interference at this stage, would, instead of, protecting interest of the administration, would created difficulties, as has been canvassed by the State. In this view of the matter and for the reasons recorded above, according to us, orders passed by the Maharashtra Administrative Tribunal, directing to quash the orders of transfer under the impugned judgment and order dated 24.04.2017, deserves to be quashed and set aside and same is accordingly quashed and set aside. It is, however, made clear that it would be open for the State to pass appropriate orders transferring the employees, if deemed necessary for administrative exigencies while effecting regular process in the months of April-May, 2018".*

18. The '**Hon'ble Bombay High Court**' in its Judgment dated 07.12.2016 in **Writ Petition No. 9499 of 2016** has observed the following:-

(i) *"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 Commissioner 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".

(ii) "The State Government and the State Election Commissioner 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".

19. The '**Hon'ble High Court of Jharkhand**' in its Judgement (**Anurag Gupta v. The Election Commission of India & Ors**) as reported in **W.P.(S) No.1714 of 2019** in 'Paragraph 25' to 'Paragraph 28' has observed the following:-

"25. From perusal of Section 28A, it is clear that all the Officers, like Returning Officer, Assistant Returning Officer, Presiding Officer, Polling Officer and any other officer appointed under Part IV of the Act of 1951 and any police officer designated for the time being by the State for conduct of any elections shall be deemed to be on deputation to the Election Commission for the period commencing on and from the date of notification calling for such election till the date of declaration of the result. The said Section 28A also provides that all such Officers, during the aforesaid period, shall be subject to the control, superintendence and discipline of Election Commission.

26. Thus, this clause provides that not only the designated police officer will be on deputation to the Election Commission, but, they shall during the said period will be under the control, superintendence and discipline of the Election Commission of India.

27. In terms of Section 28A, the State of Jharkhand has issued a notification bearing No. 13/P-1-101-2019-1498 on 19th March, 2019 designating, on amongst others, Additional Director Generals of Police as "designated officers". The petitioner, in the instant case is Additional Director General of Police, thus, there is no

doubt that the petitioner is also a designated officer for the purpose of Section 28A of the Representation of the People Act for the 17th Lok Sabha Elections.

28. Once the petitioner is designated by notification, as a "designated officer", as per Section 28A of the Act of 1951, he is deemed to be on deputation to the Election Commission for the entire period of election. By virtue of such deputation and by virtue of Section 28A of the Act of 1951, he is also under direct control, superintendence and discipline of the Election Commission of India.

20. The '**Hon'ble High Court of Karnataka**' in its Judgement (**Election Commission of India v. State of Karnataka & Ors**) as reported in **W.P. Nos.17123-124 of 2013, 17295-297 of 2013 & 17298-299 of 2013 (S-CAT)** in 'Paragraph 27' to 'Paragraph 30' has held as under:-

"27. Therefore under the scheme of the Act, clause (6) of Article 324 of the Constitution, read with Section 13CC of 1950 Act and Section 28A of the 1951 Act, makes it clear that the Government officials who are under the control of the Government when they are deputed to the Election Commission for the purpose of conduct of elections, their deputation would commence on and from the date of notification calling for such election and ending with the date of declaration of the results of such election. There is no law passed by the Parliament or the State Legislature providing for such transfer or deputation or appointment during the period of General Election. When there is no Parliamentary legislation or Rule made under the said legislation, the Commission is free to pass any orders in respect of the conduct of elections. Once the area is not covered by any legislation, then Article 324 being a reservoir of power, confers on the Election Commission power to pass such appropriate orders or issue such appropriate direction for conduct of free and fair election.

28. It is by virtue of such power conferred on the Election Commission, it has issued directions to the State Government to make available the officers who in their opinion are needed for conduct of election. In obedience of the said direction issued, the Government

has passed the impugned order of transfer. Though in the impugned order, the word 'transfer' is used, it is to be understood in the context in which it is passed. It is not a transfer which is governed by All India Services Rules framed under the All India Services Act, 1951. The said Rule does not provide for transfer of a person appointed to the All India Service, to the Election Commission during election. Therefore when the said law is silent about how the services are to be utilized during elections, the Election Commission has a free hand and if it requests or directs the Government, the Government is bound to honour the said request/direction. The Election Commission has not assigned any reasons why they are displacing these applicants. The Election Commission has no obligation to give reasons for opting for such officers. Similarly, they are under no obligation to give reasons why the person incumbent is not required. It is the matter of confidence the Election Commission has in a particular officer. Having regard to the number of days these persons are going to be displaced, there is no obligation cast on the Election Commission either to give reasons or point out in what circumstances these transfers are effected. It is made clear that when a Government servant is transferred on a direction issued by the Election Commission, the said direction is to be understood in the context of conducting free and fair election. It has no reflection on the integrity or character or the capacity or competence of the said person. It cannot, under any circumstances, be held against him. The apprehension of the applicants that in the eye of the public or otherwise, it may amount to stigma, is without any substance. The impugned order does not cast any stigma on the applicant. Once the election process is over, they will be reverted back to their original position and therefore they cannot have any grievance whatsoever. As the period during which the transfer will be in force is a very short period and the purpose of such transfer being to conduct free and fair election, the said action cannot be found fault with on any count. In the matter of election, when the ultimate responsibility is that of the Election Commission, being a Constitutional authority, they have onerous responsibility of conducting free and fair election in order to preserve democracy in the country. It is to achieve the said object, for a limited period, the impugned order is passed.

29. The argument that the Election Commission, even though they chose to requisition the services of these officers from the Government for election work and if they are to be transferred and posted before the expiry of the minimum tenure, they should make a request to the State Government, which in turn should make a request to the Committee to consider their case and make recommendation and then only they can be posted, holds no water. The said rule is not meant to deal with a situation where elections are announced to the Legislative Assembly. It is not a case of transfer. It is a case of deemed deputation. The said rule is silent and therefore under Article 324 of the Constitution, the Commission has the power to issue directions to transfer and post the officials for the proper conduct of the elections.

30. In the instant case, after preliminary preparations are made for conducting election, before issue of notification calling for the elections, the Election Commission wanted these respondents-4 to 10 to be posted in place of applicants during the period of election. Once they are so posted, after the issue of notification, they are deemed to be on deputation to the Election Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of results of such election and accordingly such officers shall, during that period are subject to control, superintendence and discipline of the Election Commission. Therefore the order passed by the Election Commission directing the State to post these officers in the place suggested by them would result in deemed deputation to the Election Commission for the aforesaid period. Once declaration of results of such election is announced, the said deputation comes to an end and at the end of the deputation, the officers are reverted back to their parent organization (previous post held by them)."

21. The 'Notification' if any under 'Section 28-A' of 'The Representation of People's Act, 1951 in respect of 'Police Personnel' in ranks of 'P.I., A.P.I. & P.S.I.' has ceased to have effect upon completion of 'General Elections: Lok Sabha 2024'. So also the period of 'Deemed Deputation' to 'Election Commission of India' of such 'Police Personnel' is now over

and they are now reverted back automatically to their respective 'Police Establishments'. Hence, 'Transfer Orders' of (i) D.G.P. Maharashtra State dated 30.01.2024 of 'P.I.' (ii) 'D.G.P. Transfer Order dated 20.02.2024, 24.02.2024 and 26.02.2024 of 'A.P.I. & P.S.I.' as well as those issued by (a) 'Special I.G.P Kolhapur Range (b) 'S.P. Pune, (Rural) (c) 'S.P. Satara for reasons elaborated above do not pass 'Testum Lex'. Only conclusion that can be arrived at is that Applicants who are 'Police Personnel' in ranks of 'P.I., A.P.I. & P.S.I.' are now required to be reposted back to their earlier 'Police Establishments' from where they were transferred just prior to 'General Elections Lok Sabha: 2024' based on criteria extrinsic to law such as 'Serving in Home Districts'. Further those Applicants who were not 'Serving in Home District' and had not just not completed 'Normal Tenure' of '2 Years' or '3 Years' on any 'Post' but even had not completed '4 Years' at 'District Level' or '8 Years' at 'Range Level' or '6 Years' or '8 Years' in establishment of 'Commissioner of Police' but yet were transferred because they had completed aggregated tenure '3 Years' during last '4 Years' in 'Revenue District'; are also required to be reposted back to their earlier 'Police Establishments'.

22. The new 'Transfer Orders' of Applicants who are 'Police Personnel' in ranks of 'P.I., A.P.I. & P.S.I.' are to be issued by 'D.G.P. Maharashtra State' notwithstanding partial disclosure of 'Vacant Posts' of 'P.I., A.P.I. & P.S.I.', in 'Tabular Chart' in respect of all respondent 'Police Establishments' which include (i) 'Commissioner of Police, Pimpri Chinchwad' (ii) 'Commissioner of Police, Pune City' (iii) 'Commissioner of Police, Thane', (iv) 'Special I.G.P. Kolhapur Range' (v) 'Superintendent of Police, Pune (Rural)' (vi) 'Superintendent of Police, Kolhapur' (vii) 'Superintendent of Police, Satara'. The exercise as above to begin forthwith upon uploading of this Order dated 19.07.2024 on 'Website' and thereupon new 'Transfer Orders' of Applicants who are 'Police Personnel' in ranks of 'P.I., A.P.I. & P.S.I.' are to be issued by 15.08.2024 by 'D.G.P., Maharashtra State' and 'Heads' of Respondent' 'Police

29

Establishments'. The 'D.G.P. Maharashtra State' is further informed to oversee prompt implementation of this Order dated 19.07.2024.

(B) Home District Change

23. The 'O.A. No.124/2024, O.A. No.125/2024, O.A. No.150/2024, O.A. No.316/2024, O.A. No.328/2024' form 'Sub Class' amongst these 'Groups of O.As' as they are also seek redressal of grievances of Applicants therein relating to their claims for change of 'Home District'.
24. The 'Spl. I.G. (Establishment)' in office of 'D.G.P. Maharashtra State' had been directed to give opportunity of 'Personal Hearing' to these Applicants from this 'Sub Class' of 'O.A. No.124/2024, O.A. No.125/2024, O.A. No.150/2024, O.A. No.316/2024, O.A. No.328/2024' and decide the about their pending representations about claims for change of 'Home District'. However, representations submitted by these Applicants came to be rejected by 'Spl. I.G. (Establishment)' with approval of 'Additional D.G. (Establishment)' in office of 'D.G.P. Maharashtra State'.
25. The claims for change of 'Home District' are often sought by 'Police Personnel'; thus 'Spl. I.G. (Establishment)' in office 'D.G.P. Maharashtra State' was informed to produce copies of earlier orders which have been passed approving claims of 'Police Personnel' for change of their 'Home District'. Accordingly one such earlier order was submitted on behalf of 'Spl. I.G. (Establishment)' in office of 'D.G.P. Maharashtra State'.
26. The perusal of this singular order about approval granted for change of 'Home District' indicates that many of the documentary evidences produced by Applicants from this 'Sub Class' of 'O.A. No.124/2024, O.A. No.125/2024, O.A. No.150/2024, O.A. No.316/2024, O.A. No.328/2024' are similar to one which were produced in the referred to earlier case by concerned 'Police Personnel'. Hence '*prima-*

facie it does appear that full appreciation of all documentary evidence in its entirety was not made at the time of decisions were taken by 'Spl. I.G. (Establishment)' in office of 'D.G.P. Maharashtra State'; although 'Personal Hearing' was granted to Applicants. Hence; based on precedence which are often relied upon in such matters another fair opportunity needs to be given to Applicants so that their grievances could be considered afresh through better appreciation of all documentary evidence submitted by Applicants in support of their claims for change of 'Home Districts'.

27. The provisions of 'Section 22(D)' of 'The Maharashtra Police Act, 1951' deals with wide range of functions assigned to 'P.E.B.-II' which includes 'other service matters' of 'Police Personnel' upto rank of 'Police Inspectors'. Therefore, 'D.G.P. Maharashtra State' against aforesaid backdrop is informed to place cases of Applicants in next meeting of 'P.E.B.-II' for appropriate decision to be taken '*de-novo*' within 'Two Weeks'. The 'P.E.B.-II' is thus designated to act as 'Reviewing Authority' since it was informed that 'Home Department' has not designated any other 'Senior Officer' above 'Additional D.G. (Establishment)' in office of 'D.G.P. Maharashtra State' to be an 'Appellate Authority' for cases relating to claims made by 'Police Personnel' for change of 'Home Districts'.

28. The 'P.E.B. - I' is placed at the 'Apex Level' of 'Police Administration' empowered to make recommendations which can evolve into 'Policy Decisions'. Hence, it is imperative that 'P.E.B.-1' continues to deliberate insightfully about the important issue of large scale 'Mid-Tenure' & 'Mid-Term' transfers of 'Police Personnel' which happen during elections conducted by 'Election Commission of India' or 'State Election Commission' and diligently strive to formulate a 'Special Policy'.

(3)

29. The 'P.E.B.-1' to especially keep in mind that 'General Elections Maharashtra Legislative Assembly: 2024' are just round the corner and there is much likelihood that 'The Wheel Will Turn Full Circle'.

30. The 'Group of OAs' are accordingly thus disposed off. 'No Order as to Costs'.

31. The copy of this Order dated 19.07.2024 to be forwarded immediately to (a) 'Additional Chief Secretary, Home Department' & (b) 'D.G.P. Maharashtra State' (c) Principal Secretary & Chief Electoral Officer, Maharashtra State.

Sd/-
(Debashish Chakrabarty)
Member (A)

Place: Mumbai
Date: 19.07.2024
Dictation taken by: N.M. Naik.

Uploaded on: _____

Annexure. A-2

1

32

PRASHANT M. NAGARGOJE

VISHNU B. NARKE

B.Sc., LL.B

ADVOCATES, HIGH COURT

Plot No. 24 Near Satarkar Hospital Ravindranagar Housing Society,
Chh. Sambhajinagar 431001
Mobile: +919326333302, 9766348687, pmnagargoje1983@gmail.com

Date: 18.08.2024

NOTICE
BY REGD. POST A.D.

To,

1. **Rashmi Shukla,**
The DGP of Maharashtra,
Office at- Shahid Bhagatsing Marg,
Colaba Mumbai-01.
2. **Mr. Amitesh Kumar,**
The Commissioner of Police,
Commissioner Office, Sadhu Vaswani chowk,
Church Path, Agarkar Nagar, Pune, Maharashtra 411001

Sub: Prior Notice for initiating contempt proceeding and legal action.

Reference:

Common Judgment and order dated 19.07.2024 passed
by the Hon'ble Maharashtra Administrative Tribunal
Mumbai in OA No. 289/2024

Avinash Balaso Dhame ... Applicant No. 1
Shridhar Shamrao Khadake ... Applicant No. 3

V/s

The State of Maharashtra and others

Respected Sir,

33

The Hon'ble Maharashtra Administrative Tribunal was pleased to issue directions, which contemplates prior advocate notice against the proposed contemnor to comply the order and accordingly as per instructions and authority of my clients, namely Avinash Balaso Dhame and Shridhar Shamrao Khadake, advocate notice is issued to you prior to filing contempt proceeding.


1. That, my clients have preferred above referred Original Application before The Hon'ble Maharashtra Administrative Tribunal Mumbai, in which they have challenged the transfer list / order dated 26.02.2024, transferring him out of district on the basis of proposal dated 23.02.2024 issued by the Commissioner of Police Pune, transferring my clients out of district as per the letter dated 22.02.2024 issued by the Chief Election Officer Maharashtra.
2. The Hon'ble Maharashtra Administrative Tribunal Mumbai by its common judgment and order dated 19.07.2024 was pleased to allow my client's Original Application by observing in para No. 21 and 22 page No. 17 and 18 (Mark Portion) that,

Only conclusion that can be arrived at is that Applicants who are 'Police Personnel' in ranks of 'P.I., A.P.I. & P.S.I.' are now required to be reposted back to their earlier 'Police Establishments' from where they were transferred just prior to 'General Elections Lok Sabha: 2024' based on criteria extrinsic to law such as 'Serving in Home Districts'. Further those Applicants who were not 'Serving in Home District' and had not just not completed 'Normal Tenure' of '2 Years' or '3 Years' on any 'Post' but even had not completed '4 Years' at

'District Level' or '8 Years' at 'Range Level' or '6 Years' or '8 Years' in establishment of 'Commissioner of Police' but yet were transferred because they had completed aggregated tenure '3 Years' during last '4 Years' in 'Revenue District'; are also required to be reposted back to their earlier 'Police Establishments.

22. The new 'Transfer Orders' of Applicants who are 'Police Personnel' in ranks of 'P.I., A.P.I. & P.S.I' are to be issued by 'D.G.P. Maharashtra State' not withstanding partial disclosure of 'Vacant Posts' of 'P.I., A.P.I. & P.S.I', in 'Tabular Chart' in respect of all respondent 'Police Establishments' which include (i) 'Commissioner of Police, Pimpri Chinchwad' (ii) 'Commissioner of Police, Pune City' (iii) 'Commissioner of Police, Thane', (iv) 'Special I.G.P. Kolhapur Range' (v) 'Superintendent of Police, Pune (Rural)' (vi) 'Superintendent of Police, Kolhapur' (vii) 'Superintendent of Police, Satara'. The exercise as above to begin forthwith upon uploading of this Order dated 19.07.2024 on 'Website' and thereupon new 'Transfer Orders' of Applicants who are 'Police Personnel' in ranks of 'P.I., A.P.I. & P.S.I' are to be issued by **15.08.2024** by 'D.G.P., Maharashtra State' and 'Heads' of Respondent 'Police Establishments'. The 'D.G.P. Maharashtra State' is further informed to oversee prompt implementation of this Order dated 19.07.2024.

3. That, all of you are public servant and party respondent in the original application having duty to Honor / Obey the judgment and



order of the Hon'ble Maharashtra Administrative Tribunal Mumbai.

4. That, as per the judgment and order passed by The Hon'ble Maharashtra Administrative Tribunal you all are supposed to Honor the common judgment and order and issue necessary orders / instructions in respect of Cancellation of their transfer but till this date as per instruction of my clients, you have not challenged the final common judgment and order passed by The Hon'ble Maharashtra Administrative Tribunal Mumbai before appropriate forum/Court and as such the said common judgment and order dated 19.07.2024 passed in O.A. No. 289/2024 is binding on all of you.
5. Since the Ld. C.P.O. was representing all of you and common judgment and order is pronounced in his presence on 19.07.2024, which impliedly reveals that you all were aware about the judgment. Apart from above as per judgment passed by Hon'ble Maharashtra Administrative Tribunal Mumbai my client has addressed a representation along with common judgment and order dated 19.07.2024 to you i.e. the DGP of Maharashtra along with the Commissioner of Police, praying therein to relieve them and repost them at their respective district / Commissionerate Area with immediate effect, but till this date no action has been taken.
6. Despite the representation and Email made by my clients you have not obeyed the common judgment and order dated 19.07.2024 passed by The Hon'ble Maharashtra Administrative Tribunal Mumbai in OA No. 289/2024. Therefore, you have disobeyed the

36

common judgment and order dated 19.07.2024 passed by The Hon'ble Maharashtra Administrative Tribunal Mumbai in OA No. 289/2024 and you will be personally liable for contempt proceeding and its consequences.

7. That, in similar set of facts other Police Officers who has challenged their transfer order before Hon'ble M.A.T Mumbai bench at Aurangabad and their Original Applications are allowed by the Hon'ble MAT and as per judgment and order passed by Hon'ble MAT they have joined at their earlier post. Therefore, my client is also liable for same treatment.
8. If despite receipt of this notice, no effective steps / action are taken forthwith, its tantamount to your "Willful Disobedience" for which you all are personally responsible for contempt proceeding.

Hence, this prior notice.

Yours Truly,



Prashant M. Nagargoje
Vishnu B. Narke
Advocates,
High Court, Aurangabad

Article Tracking

Article Tracking Details

* Article Tracking Number

Details

Article ID RM388707148IN

Article Type Registered Lel

View: [Standard View]

Export

Date	Time	Article Status	At Facility	At facility ID	From/To Office	From/To facility ID	Bag ID
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Article Tracking

Article Tracking Details

* Article Tracking Number

Details

Article ID RM388706978IN

Article Type

Registered Le

View: [Standard View]

Export

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