

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 103 OF 2024
(Subject – Transfer)**

DISTRICT : JALNA

Pratibha Pandurang Gore,)
Age : 50 years, Occ. : Govt. Service,)
Tahsildar, Partur, Ta. Partur, Tq. & Dist. Jalna.)

.... **APPLICANT**

V E R S U S

1. State of Maharashtra,)
Through Additional Chief Secretary,)
Revenue and Forest Department,)
Mantralaya, Mumbai-400032.)

2. The Divisional Commissioner,)
Aurangabad Division, Aurangabad.)

3. The Collector,)
Jalna, Ta. & Dist. Jalna.)

... **RESPONDENTS**

APPEARANCE : Shri Jiwan Patil, Counsel for Applicant.

: Shri D.M. Hange, Presenting Officer for
respondent authorities.

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

DATE : 08.05.2024

O R A L - O R D E R

1. Heard Shri Jiwan Patil, learned counsel appearing for the applicant and Shri D.M. Hange, learned Presenting Officer appearing for respondent authorities.

2. The present Original Application is disposed of finally with the consent of both the parties at the admission stage.

3. This is about the transfer of the applicant in terms of the directives issued by the Election Commission of India by way of communication dated 21.12.2023. The applicant is working as Tahsildar. In terms of the impugned order of transfer dated 31.01.2024, the applicant came to be transferred from the post of Tahsildar, Partur, Dist. Jalna to Tahsildar (Revenue), Parbhani. Hence, the present Original Application.

4. Learned counsel for the applicant submits that in terms of para No. 6 of the directives issued by the Election Commission of India dated 21.12.2023, the categories of officers are mentioned, who are not covered under the transfer policy. In terms of clause (iv) of said para No. 6, if such officers / officials against whom the Commission had recommended disciplinary action in past and which is pending or which has resulted in a penalty or the officers who have been charged for any lapse in any election or election related work in the past, shall not be assigned any election related duty. There are certain riders in clause No. (iv) of para No. 6 as stated above, however, the applicant came to be transferred only on the ground that the Departmental Enquiry is pending against her. The applicant is

presently working as Tahsildar, Partur, Dist. Jalna in terms of the interim order passed by this Tribunal on 06.02.2024.

5. Learned Presenting Officer submits that the Departmental Enquiry charge-sheet and the charges are placed before this Tribunal and on perusal of the same, it appears that the applicant is subjected to Departmental Enquiry along with some other employees in connection with her election duties in the Parliamentary and Assembly Elections of the year 2019 of Majalgaon constituency. Learned P.O. submits that since the applicant is working as Tahsildar and holding an executive post, in view of the pendency of above said Departmental Enquiry she was required to be transferred. The impugned order is proper, correct and legal and calls for no interference.

6. In para No. 6 particularly clause No. (iv) of the directives issued by the Election Commission of India dated 21.12.2023, the categories of the officers not covered under the transfer policy are mentioned. The officers / officials against whom the Commission had recommended disciplinary action in past need not be transferred and they shall not be assigned with any election related duty.

7. I am in agreement with the submissions made on behalf of the applicant by learned counsel for the reason that in

the instant case the Election Commission of India had not recommended the disciplinary action against the applicant and the Departmental Enquiry, which is pending against the applicant, came to be initiated by the State Government. In view of the same, the clause No. (iv) of para No. 6 of the directives issued by the Election Commission of India dated 21.12.2023 are not applicable to the case of the applicant. Further considering the gravity and seriousness of the allegations made against the applicant, for which the Departmental Enquiry is now pending, in my considered opinion, the impugned order of transfer when the applicant is directly connected with the elections as Tahsildar is proper, correct and legal and calls for no interference. I find no substance in the present Original Application and the same is liable to be dismissed.

8. At this stage, learned counsel for the applicant has requested for continuation of interim order for a period of two weeks. However, I am not inclined to continue the said interim order, since though the polling is over, however counting is yet to be completed and in view of that, there is no reason to continue the interim order. It is necessary to mention here that at the time of passing of interim order dated 06.02.2024, the documents relating to the Departmental Enquiry were not before this

Tribunal and those were submitted along with the affidavit in reply filed on behalf of respondent No. 1. Hence, the following order :-

ORDER

- (i) Original Application No. 103/2024 is hereby dismissed.
- (ii) Interim relief granted on 06.02.2024 stands vacated forthwith.
- (iii) In the circumstances, there shall be no order as to costs.
- (iv) Original Application is accordingly disposed of.

PLACE : Aurangabad.
DATE : 08.05.2024

(Justice V.K. Jadhav)
Member (J)

KPB S.B. O.A. No. 103 of 2024 VKJ Transfer