

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

**ORIGINAL APPLICATION NO. 364 OF 2024
(Subject – Transfer)**

DISTRICT : AURANGABAD

Amol S/o Tatyrao Mhaske,)
Age : 38 years, Occu. : Service as Police)
Sup-Inspector, Jawahar Nagar Police Station,))
Tq. and Dist. Ch. Sambhajinagar.)

.... **APPLICANT**

V E R S U S

1. **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 Commission of India,**)
Nirvachan Sadan, Ashoka Road,)
New Delhi 110001.)
4. **The Chief Election Officer,**)
State of Maharashtra,)
General Administration Department,)
Office at Madam Cama Marg,)
Hutatma Rajguru Chowk, Mumbai- 01.)

... RESPONDENTS

APPEARANCE : Shri P.M. Nagargoje, Counsel for Applicant.

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

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

DATE : **26.04.2024**

ORAL - ORDER

1. Heard Shri P.M. Nagargoje, 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, who is working as Police Sub-Inspector in terms of the directives issued by the Election Commission of India.

4. Learned counsel for the applicant submits that admittedly Chh. Sambhajinagar is the home district of the applicant. However, by order dated 26.01.2024, the applicant came to be transferred from Police Station Cidco to Reader DCP Crime. On 13.02.2024, the applicant was relieved from Police Station Cidco to join the transfer place i.e. Reader DCP Crime. Thereafter, by impugned order dated 26.02.2024, the applicant came to be transferred from Chh. Sambhajinagar City to Nanded City without mentioning in the said order that the applicant was working and posted as Reader DCP Crime. It is simply stated in the said order that the applicant is transferred from Chh.

Sambhajinagar City to Nanded City in terms of the directives issued by the Election Commission of India.

5. Learned counsel for the applicant submits that the applicant was holding non-executive post and as such, he was not directly connected with the Elections. Thus the transfer policy as declared by the Election Commission of India is not applicable to the case of the applicant. Learned counsel thus submits that the present Original Application deserves to be allowed by setting aside the impugned order of transfer.

6. Learned Presenting Officer submits that it is true that being Reader DCP Crime, the applicant was holding non-executive post. However, in terms of the directives issued by the Election Commission of India the applicant came to be transferred, since Chh. Sambhajinagar is his home district. Learned Presenting Officer submits that the applicant is working in Chh. Sambhajinagar city since 2019 and as such, he has completed more than three years out of last four years' service and thus both the conditions stand fulfilled in terms of para No. 5.3 of the said directives and as such, the applicant is rightly transferred in terms of the directives issued by the Election Commission of India. Learned P.O. submits that there is no substance in the

present Original Application and the same is liable to be dismissed.

7. Admittedly, at the time of passing of impugned order, the applicant was working as Reader DCP Crime and by order dated 26.01.2024 the applicant came to be transferred from Police Station Cidco to Reader DCP Crime.

8. On careful perusal of the directives issued by the Election Commission of India by way of communication dated 21.12.2023 and more particularly para No. 5.3, which pertains to Police officers. The primary condition is that the Police Officers, who are responsible for security arrangement or deployment of police forces in the district at the election time and if it is their home district or they have completed a tenure of three years out of four years on or before the cutoff date in a police sub-division, they are required to be transferred. In the instant case, the applicant being posted and working as Reader DCP Crime is not a Police Officer responsible for security arrangement or deployment of police forces in the district at election time. In other words, the applicant was holding non-executive post. In view of the same, the transfer policy as declared by the Election

Commission of India is not applicable to the case of the applicant.

9. Learned counsel for the applicant submits that the applicant has joined the place of transfer as per the impugned transfer order dated 26.02.2024. Thus the present Original Application deserves to be allowed.

10. In view of above discussions, the following order is passed :-

ORDER

- (i) The Original Application No. 364/2024 is hereby allowed.
- (ii) The impugned order dated 26.02.2024 is hereby quashed and set aside to the extent of the applicant and the applicant shall be reposted to his original post i.e. Reader DCP Crime, Chh. Sambhajanagar.
- (iii) In the circumstances there shall be no order as to costs.
- (iv) The Original Application is accordingly disposed of.

PLACE : Aurangabad.
DATE : 26.04.2024

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