

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

**ORIGINAL APPLICATION NO. 367 OF 2024
(Subject – Transfer)**

DISTRICT : NANDED

Dr. Nitin s/o Bhaskarrao Kashikar,)
Age : 47 years, Occu. : Service as)
Police Inspector, Hingoli, District Hingoli,)
R/o House No. 4/19/53/178, Banjara Colony,))
Gautam Nagar, Ch. Sambhajinagar,)
Dist. Chhatrapati Sambhajinagar.) **APPLICANT**

V E R S U S

1. **The D.G.P., Maharashtra,**)
Office at Shahid Bhagatsing Marg,)
Colaba, Mumbai- 01.)
2. **The Inspector General of Police,**)
Nanded Region, Nanded.)
3. **The Superintendent of Police,**)
Nanded, District Nanded.)
4. **The Election Commission of India,**)
Nirvachan Sadan, Ashoka Road,)
New Delhi 110001.)
5. **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 : 06.05.2024

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. The present matter is about the mid-tenure transfer of the applicant in terms of the directives issued by the Election Commission of India by communication dated 21.12.2023.

4. Learned counsel for the applicant submits that the applicant is working as Police Inspector and at the time of his transfer by impugned order dated 24.02.2024 (Annexure A-1 collectively), he was working as Police Inspector at Nanded and by the said order, transferred to Hingoli, since he has completed more than three years of tenure as on the cutoff date i.e. 30.06.2024.

5. Learned counsel for the applicant submits that initially the applicant was holding non-executive post at Police Control Room, Nanded and thereafter by order dated 02.02.2024, transferred to C-47. Learned counsel submits that C-47 speaks

about the Anti Naxal Cell. Learned counsel submits that even the respondent authorities have also not disputed that at the time of passing of impugned order, the applicant was not directly connected with the elections and he was holding non-executive post.

6. Learned Presenting Officer submits that the applicant has completed three years as on the cutoff date out of last four years and in view of the directives issued by the Election Commission of India by communication dated 21.12.2023, he is required to be transferred in terms of para No. 3(ii) of the said directives. Learned Presenting Officer submits that there is no substance in the present Original Application and the same is liable to be dismissed.

7. On careful perusal of the annexures, particularly order dated 02.02.2024 (Annexure A-2 collectively), though the applicant was initially working with Police Control Room, Nanded and posted to C-47 i.e. Naxal Cell, which has been admitted in para No. 6 of the affidavit in reply filed on behalf of respondent, transferred to Hingoli District within Nanded Range.

8. In terms of para No. 3 read with para No. 5.3 of the directives issued by the Election Commission of India by

communication dated 21.12.2023, the Police Officers as detailed in the said para, who are responsible for security arrangement or deployment of police forces in the district at election time (i) should not be posted in their home district and (ii) if a Police Sub-Inspector has completed or would be completing a tenure of three years on or before the cutoff date in a police sub-division, then he should be transferred out to a sub-division which does not fall in the same AC.

9. In the instant case, the applicant being attached to C-47 is not the Police Officer responsible for security arrangement or deployment of police forces in the district at election time. This fact is also not disputed by the respondent authorities. In view above, the transfer policy as declared by the Election Commission of India by communication dated 21.12.2023 is not applicable to the case of the applicant and as such, the impugned order of transfer is incorrect, improper and illegal and the same is liable to be quashed and set aside. Hence, the following order :-

ORDER

(i) The Original Application No. 367/2024 is hereby allowed.

- (ii) The transfer order dated 24.02.2024 issued by respondent No. 4 to the extent of present applicant is hereby quashed and set aside.
- (iii) In the circumstance, there shall be no order as to costs.
- (iv) Original Application is accordingly disposed of.

PLACE : Aurangabad.

DATE : 06.05.2024

(Justice V.K. Jadhav)

Member (J)

KPB S.B. O.A. No. 367 of 2024 VKJ Transfer