

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 447 of 2024 (S.B.)

Gajendra S/o Janrao Nistane,
Aged about- 42 years, R/o- Near Ravi Nagar,
Chhangani Nagar, Amravati, Maharashtra - 444605.

Applicant.

Versus

1. State of Maharashtra,
through Deputy Superintendent of Land Records Washim,
having its office at Besides Tehsil Office Campus,
Washim-444605.
2. State of Maharashtra,
through District Superintendent of Land Records,
having its office at Washim, New Administrative Building First
Floor Room No.104, Kata Road, Washim-444605.
3. State of Maharashtra
through Deputy Director of Land Records,
Amravati Region, Amravati, Divisional Commissioner
Campus KantaNagar, Camp, Amravati- 444602.
4. State of Maharashtra,
through its Settlement Commissioner and Director of Land
Records, Maharashtra State (Pune) New Administrative Building,
2nd and 3rd Floor, Opposite Council Hall Agarkar Nagar, Pune,
Maharashtra-411001.
5. State of Maharashtra,
through the Secretary Department of Revenue and Forests,
Govt. of Maharashtra, First Floor, Main Building, Mantralaya,
Madam Cama Road, Hutatma RajguruSquare, Mumbai-400032.

Respondents.

**S/Shri K. Deogade, A. Mokadam, C.B. Misal, Advs. for the
applicant.**

Shri A.M. Khadatkhar, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 29/01/2025.

J U D G M E N T

Heard Shri Kaustubh Deogade, learned counsel for the applicant and Shri A.M. Khadatkhar, learned P.O. for the respondents.

2. The case of the applicants in short is as under –

The applicant is working as a Nimtandar in the office of Deputy Superintendent of Land Records, Washim. Son of applicant is suffering from Autism. He is getting treatment from the Doctor at Amravati which is near from Karanja Lad. The applicant is promoted and posted at Washim. It is the case of the applicant that as per the G.R. dated 09/04/2018 the applicant is entitled to get posting at Karanja Lad to take care of his son. Therefore, the applicant has filed the present O.A. for the following reliefs -

“ (6) A. Be please to quash and set aside the impugned pre-punishment warning letter dated 22.02.2024 (Annex.17)

B. Be please to direct the respondent no.3 to allow the claim of the applicant pertaining to preferential transfer mentioned in letters dated 13.12.2021 and 26.04.2022 (Annex.1&2) respectively.

C. Be please to direct the respondent no .3 to accommodate the applicant in the next list of vacancies to be published as per provision in the G.R. dated 09.04.2018 (Annex.14)

D. Be further please to hold and declare that the impugned communication dated 22.02.2024 (Annex.17) as arbitrary and illegal.

E. Be further please to stay the effects and operations of the communication dated 22.02.2024 (Annex.17)

F. By way of interim relief direct the respondent authority not to take any coercive action against the applicant during the pendency of this petition.

G. Grant Ad interim ex parte relief in terms of prayer clause E & F.

(7) * Be further please to stay the effects and operations of the communication dated 22.02.2024 (Annx.17)

* By way of interim relief direct the respondent authority not to take any coercive action against the applicant during the pendency of this petition.

*Grant Ad interim ex parte relief in terms of prayer clause E & F above.”

3. The O.A. is strongly opposed by the respondents. It is submitted that the applicant is promoted and posted at Washim. Now he is not due for transfer, therefore, he cannot claim benefit of G.R. and hence the O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for applicant has made a statement that post of Nimtandar is vacant at Karanja Lad. He has pointed out the document of Disability Certificate issued by the Medical Authority, Amravati dated 28/02/2023. The learned counsel for applicant has submitted that looking to the difficulty of applicant, direction be given to the respondents to post him at Karanja Lad in the office of Deputy Superintendent of Land Records, Karanja Lad.

5. The learned P.O. has strongly opposed the O.A. As per his submission, he has no any instruction about the vacant post at Karanja Lad. The applicant was promoted and posted at Washim, he is not due for transfer and therefore he cannot be posted at Karanja Lad. The material portion of the G.R. dated 9/4/2018 is reproduced below –

“जे शासकीय कर्मचारी, केंद्र शासनाने वेळोवेळी केलेल्या सुधारणांच्या अनुषंगाने असक्षम ("disabled") या शब्दात अंतर्भूत (i) अंधत्व किंवा कमी दृष्टी (blindness or low vision), (ii) कमी ऐकू येणे (hearing impairment), (iii) हालचाल करता न येणे (locomotor disability or cerebral Palsy), (iv) कुष्ठरोगी (leprosy cured), (v) मानसिक दुर्बलता (mental retardation), (vi) मानसिक आजार (mental illness), (vii) अनेक अपंगत्व (multiple disabilities), (viii) ऑटीझम (Autism), (ix) थॅलेसीमिया (Thalassemia), आणि (x) हिमोफिलिया (Hemophilia) हे आजार असलेल्या मुलांचे किंवा मतिमंद असलेल्या मुलांचे पालक (पालक म्हणजे आई-वडील किंवा ते नसल्यास बहीण- भाऊ) असून त्या मुलांचे मुख्य काळजीवाहक आहेत (serves as the main care giver) व शासकीय कर्मचाऱ्यांच्या बदलीमुळे त्यांच्या असक्षम पाल्यांच्या पुनर्वसनामध्ये अडथळा निर्माण होत आहे, अशा शासकीय कर्मचाऱ्यांनी त्यांच्या पाल्यांच्या आजारपणाचे किंवा मतिमंदत्वाबाबतचे जिल्हा शल्य चिकित्सक तथा सक्षम प्राधिकाऱ्याचे प्रमाणपत्र दि. ३० एप्रिल पूर्वी बदली प्राधिकाऱ्याकडे सादर केल्यास त्यांची प्रशासकीय सोयीनुसार व पद उपलब्धतेनुसार त्यांच्या सोयीच्या ठिकाणी बदली करण्यात यावी.”

6. The document, i.e., Disability Certificate issued by the Medical Authority, Amravati shows that son of applicant is suffering from “Mild Autism Spectrum Disorder” and the disability certificate is valid till 28/02/2026.

7. Looking to the Certificate and guidelines given in the G.R. dated 09/04/2018, the following order is passed -

ORDER

(i) The O.A. is partly allowed.

(ii) The respondents are directed to consider the request of applicant for posting at Karanja Lad in view of the G.R. dated 09/04/2018 within a period of three months from the date of receipt of this order.

(iii) No order as to costs.

Dated :- 29/01/2025.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 29/01/2025.