

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

**ORIGINAL APPLICATION NO. 1278 OF 2024**

**DISTRICT : JALGAON**

**Mr. Ravindra S/o Raghunath Mahjan,** )  
Age : 50 years, Occu. : Service as Naib )  
Tahsildar (Revenue) Tahsil Office, Nashik, )  
R/o : -11, Yamuna Nagar, Yeola Road, )  
Chopda, Tq. Chopda, Dist. Jalgaon. ) .... **APPLICANT**

**V E R S U S**

01. **The State of Maharashtra,** )  
Through its Principal Secretary, )  
Revenue and Forest Department, )  
Mantralayaa Mumbai-400032 )

02. **The Additional Commissioner,** )  
Nashik Division, Nashik )

03. **The Collector, Jalgaon,** )  
District Jalgaon. ) ... **RESPONDENTS**

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**APPEARANCE** : Shri S.R. Barlinge, Counsel for the Applicant.

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

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**CORAM** : **Shri A.N. Karmarkar, Member (J)**

**RESERVED ON** : **24.03.2025**

**PRONOUNCED ON** : **01.04.2025**  
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**O R D E R**

1. By filing the present Original Application, this applicant has prayed for quashing and setting aside impugned order dated 29.09.2024. He has also sought direction to

retransfer him as Naib Tahsildar, Tahsil Office Chopda, Dist. Jalgaon.

2. According to the applicant, he was not due for transfer, as he has just completed seven months at Chopda. The applicant was transferred from Tahsil Office Chopda, Dist. Jalgaon to Tahsil Office Nandgaon, Dist. Nashik by impugned order dated 29.09.2024. He has joined the place of transfer keeping his right open. The applicant has submitted letter dated 27.08.2024 to Tahsildar, Chopda requesting to inform the authorities concerned to consider his request for his continuation at Chopda. Accordingly the concerned authority has issued letters dated 30.08.2024 and 27.08.2024.

As per the guidelines issued by the Election Commission of India, the post of Naib Tahsildar was shown as Assistant Returning Officer in 2019 Guidelines. However, the Naib Tahsildar is Class-B post and does not have separate office. The officers, who are having separate offices and have been staying in Jalgaon District for last four to five years, are liable to be transferred out of district. Moreover, no correction was made. The applicant has joined at transferred place to enable the authorities to conduct the Elections of Maharashtra Legislative

Assembly. Now his claim to retransfer needs to be considered. Applicant's son is studying in 10<sup>th</sup> standard and his wife is also working as Agricultural Assistant at Chopda, Dist. Jalgaon. In similar circumstances O.As. were allowed by the Principal Seat of this Tribunal at Mumbai on 19.07.2024 and direction was given to reconsider the transfer made at the time of Parliamentary Election. The impugned order is challenged on the ground that proper procedure is not followed before transfer.

3. Respondent Nos. 1 and 2 have filed their affidavit in reply (page No. 55 of paper book). The present applicant was transferred on the cause of free, fair and transparent Election process, as the post on which the applicant transferred is notified post according to the notification of Election Commission of India. No guidelines are provided by Election Commission of India to consider modification in transfer order. The reasons mentioned by the present applicant are not reasonable and cogent. There is no illegality in impugned order. According to these respondents, the present Original Application deserves to be dismissed.

4. The applicant has not filed rejoinder affidavit.

5. I have heard Shri S.R. Barlinge, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondents. Both the parties have submitted as per their respective contentions.

6. According to learned counsel for the applicant, the tenure of the present applicant is not over and he is transferred just within seven months. He has invited my attention to the representation of the present applicant dated 27.08.2024 (Annexure A-4 colly., page No. 26 of paper book). It is also submitted that the place from where the applicant was transferred is still vacant. He has submitted that one of the employees who was transferred along with the present applicant vide impugned order dated 29.09.2024 had filed O.A. No. 1210/2024 before this Tribunal. The said O.A. was allowed. According to him, in para No. 14 of the said judgment, it is discussed that the reason of election is also not sustainable and the applicant does not fall in those guidelines. The case of the present applicant is not covered under Section 4(4)(ii) and 4(5) of the Transfer Act, 2005.

On the other hand, learned Presenting Officer has submitted that the impugned order of transfer was passed under

Section 4(4)(ii) of the Transfer Act, 2005. According to him, the present applicant was transferred on the cause of free, fair and transparent Election process, as the post on which the applicant was transferred is notified post according to the notification of Election Commission of India. He has also invited my attention to the minutes of Civil Services Board meeting by placing it on record, which shows the grounds for transfer of the present applicant. According to him, the applicant cannot be reposted as contended in the present Original Application in view of the recent judgment of Hon'ble High Court of Bombay in a case of **the State of Maharashtra and Ors. Vs. Pramila Vitthal Kawale & Others in W.P. No. 11740/2024 and other connected W.Ps.**

7. The main contention of the applicant is that he is transferred before completion of his tenure and procedure as required is not followed. The impugned order shows that there is reference of communication of Election Commission of India, letter of Revenue and Forest Department, Transfer Act, 2005 and minutes of Civil Services Board meeting. This order shows that the powers were given to the Divisional Commissioner for transfer of the officers, who were working on the post of Naib Tahsildar in view of the Notification of Election Commission of India. Letter / representation of the applicant 27.08.2024 (page

No. 26 of paper book) also refers that the post of Naib Tahsildar, Chopda, Dist. Jalgaon is notified post as per the notification of Election Commission of India. Same fact is mentioned by the respondents in para No. 9 of their affidavit in reply. The minutes of Civil Services Board also shows that as per the letter of Election Commission of India dated 31.07.2024, it is necessary to transfer the officers, who are working on the post of Assistant Election Returning Officer (AERO). So the approval is given by the competent authority for transfer of such officer considering the Assembly Election 2024. The Civil Services Board seems to have taken into consideration the criteria as fixed by the Election Commission of India regarding officers, who are to be transferred and other details etc. The impugned order shows that the powers are given to the Divisional Commissioner for approval to the recommendation regarding transfer of the officers working on the post of Naib Tahsildar. So it is apparent that the respondents have adopted the necessary procedure for mid-term transfer of the present applicant. It is clear from the impugned order and minutes of Civil Services Board meeting that the impugned order was passed due to administrative exigencies and in public interest and also for free, fair and transparent Election.

8. The applicant has referred one of the grounds in para No. 11 of memo of O.A. that group of O.As., which were filed before the Principal Seat of this Tribunal at Mumbai and order passed by this Tribunal dated 19.07.2024. According to the applicant, the Tribunal has directed the authority concerned to reconsider the transfer made at the time of Parliamentary Election. On that basis the applicant has prayed for his retransfer at earlier place. It appears that the said order dated 19.07.2024 was challenged before the Hon'ble High Court of Bombay in W.P. No. 11740/2024 along with other W.Ps. In this matter, the order of Tribunal dated 19.07.2024 is quashed and set aside. It is necessary to reproduce para No. 10 of the said judgment, which is as under :-

*“10] Perusal of the minutes of the PEB dated 25/02/2024 indicates that reference has been made to the Circular dated 21/12/2023 issued by the ECI as well as the communication dated 22/02/2024 issued by the State Election Commission. On that basis requisite information from the concerned superior police authorities was called. After considering the Circular dated 21/12/2023 and communication dated 22/02/2024 referred to above, the power conferred by Section 22-N(2) of the Act of 1951 was invoked and seventy three officers came to be transferred. Since the transfers in question have been effected only in view of the directives of the ECI, it cannot be said that there is absence of any public interest or absence of any exceptional case in*

*transferring the concerned officers. The Circular dated 21/12/2023 issued by the ECI being binding on the State Government, it cannot be said that the PEB by transferring the concerned officers after taking recourse to the said Circular was not entitled to do so. Once it is found that the directives of the ECI were binding on the State Government, steps taken to comply with the same in public interest would be sufficient to invoke the power conferred by Section 22-N(2) of the Act of 1951 and effect transfers accordingly. On that count we do not find that any fault can be found with the orders of transfer.”*

In view of this fact and observations of the Hon'ble High Court in the above referred judgment, it can be said that the transfer of the applicant was effected in view of the directions of Election Commission of India and it cannot be said that there was absence of public interest or absence of administrative exigency. Secondly, the impugned order does not indicate that it was to remain in effect only till such time the elections were to conclude. So this order of transfer has to be treated as order of mid-term transfer not limited for any particular period.

9. Learned counsel for the applicant has also referred the judgment of this Tribunal in O.A. No. 1210/2024 of this Tribunal. According to learned counsel for the applicant, the applicant in that matter was also transferred along with the present applicant. The said judgment does not reveal any



reference of placing on record the copy of minutes of Civil Services Board meeting. In that matter it was discussed that Government has come with a stand that the transfer of that applicant was not restricted to the purpose of election. Even it was submitted by learned counsel for the applicant in that matter that initial proposal dated 27.09.2024 sent by the State Government regarding the transfer does not bear the name of applicant as proposed transferry. The applicant's ensuing retirement in proximity in that matter was also considered by the Tribunal. Hence, the said judgment cannot be said to be of much help to the applicant.

10. In view of the discussions in foregoing paragraphs, the present Original Application deserves to be dismissed. Hence, the following order :-

**ORDER**

The Original Application stands dismissed. There shall be no order as to costs.

**(A.N. Karmarkar)**  
**Member (J)**

**PLACE : Aurangabad**  
**DATE : 01.04.2025**