

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

**ORIGINAL APPLICATION NO. 1335 OF 2024**

**DISTRICT : AURANGABAD**

**Pramod S/o Santoshrao Patil,** )  
Age : 54 years, Occ. : Service as Police Inspector,)  
R/o. N-12 C-64 Swami Vivekanand, Chhatrapati)  
Sambhajinagar, Tq. & Dist. Chhatrapati )  
Sambhajinagar (Aurangabad) )

.... **APPLICANT**

**V E R S U S**

01. **The State of Maharashtra,** )  
Through its Secretary, Home )  
Department, Mantralaya, Mumbai-32. )
02. **The Special Inspector General of Police,**)  
Chhatrapati Sambhajinagar Range )  
District Collector, Near Baba Petrol Pump,)  
Chhatrapati Sambhajinagar, Tq & Dist.)  
Chhatrapati Sambhajinagar. )
03. **The Superintendent of Police,** )  
SP Office Rural Near T.V. Center Road )  
N-10, Chhatrapati Sambhajinagar, )  
Tq. & Dist. Chhatrapati Sambhajinagar)
04. **Nilesh S/o Shivaji Shelke,** )  
Age : 35 years, Occ. : Service (as I/c )  
Assistant Police Inspector), )  
C/o. Police Station Bidkin, Tq. Paithan,) )  
Dist. Chh. Sambhajinagar (Aurangabad))

**... RESPONDENTS**

**APPEARANCE** : Shri Avinash Deshmukh, Counsel for the  
Applicant.

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

: None present for respondent No. 4, though  
duly served.

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**CORAM** : **Shri Ashutosh N. Karmarkar, Member (J)**  
**RESERVED ON** : **16.04.2025**  
**PRONOUNCED ON** : **05.05.2025**  
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**ORDER**

1. By filing the present Original Application, the applicant has prayed for quashing and setting aside impugned order dated 11.10.2024 issued by respondent No. 3. He has also prayed for direction to the respondents to decide representation dated 14.10.2024 and to cancel the impugned order dated 11.10.2024.

2. Initially the applicant was appointed as Police Constable on 26.12.1991. Subsequently he was selected through MPSC as Police Sub-Inspector. He was promoted as API and then Police Inspector. The applicant served at different places. He was transferred in June, 2023 from Parbhani to S.P. office Chhatrapati Sambhajinagar (Rural). Then respondent No. 3 has passed order on 20.01.2024 under Section 22N of the Maharashtra Police Act and the applicant was transferred from Chh. Sambhajinagar to In-charge Police Inspector, Police Station Bidkin. The applicant joined there on 21.01.2024. Then respondent No. 3 has transferred vide order dated 11.10.2024

several officers including the present applicant. The said order of transfer of applicant from Police Station Bidkin to Police Control Room, Chh. Sambhajinagar is totally against the provisions of law. Even though the impugned order shows reference and request of this applicant. Present applicant has never requested for his transfer. There is also reference of provisions of Section 4(4)(2) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short "the Transfer Act 2005"), which is not applicable to the present applicant being a Police officer. The respondent No. 3 has transferred respondent No. 4 in place of the applicant at Bidkin Police Station. The applicant joined at Control Room, Chh. Sambhajinagar on 14.10.2024. The impugned order came to be passed due to political influence. Thus the applicant has prayed to allow the present Original Application.

3. Respondent Nos. 2 and 3 (page No. 125 of paper book). According to them, respondent No. 3 has observed irregularities in the work of applicant during the annual inspection of Bidkin Police Station for the year 2024-25, which is conducted between 09.09.2024 to 12.09.2024. Secondly, the applicant failed to handle law and order situation effectively.

There was signed memorandum of Sarpanch's of 20 villages against the present applicant highlighting continuation of illegal activities under the applicant's jurisdiction working during Bidkin Police Station. He has also noticed that there was no satisfactory progress in several matters of theft. There were allegations of officers and subordinates of the applicant regarding his adamant behavior. Respondent No. 3 sent report to respondent No. 2 regarding proposal of the applicant for mid-term transfer and to take decision on it. Meeting of Police Establishment Board (for short 'PEB') was held on 10.10.2024 to discuss and decide the issue of transfer of this applicant and also officers, who requested for transfer. After careful consideration, the said committee has taken decision regarding transfer of this applicant along with other officers. According to these respondents, there was exceptional circumstances and special reason for transfer of this applicant. G.R. dated 09.04.2018 is not applicable to this matter. Thus the respondents have prayed to dismiss the present O.A.

4. The applicant has filed rejoinder affidavit. According to him, the respondents have referred provisions of Transfer Act, 2005 in the impugned order. They failed to explain as to how those provisions are applicable. Actually, those provisions are

not applicable to the case of applicant being Police personnel. On the basis of proposal of respondent No. 3 of this applicant, respondent No. 2 approved the same. It shows that the respondents tried to follow the procedure as given in Transfer Act, 2005. Thus the applicant has also referred proviso to Section 22N(1) of the Maharashtra Police Act and contended that powers to effect mid-term transfer of the Police personnel vests with the State Government. He has placed on record documents obtained under Right to Information Act. According to him, grievance of Sarpanch's was forwarded on 09.12.2024 and it was considered in the meeting in October, 2024.

5. None present for respondent No. 4, though duly served.

6. I have heard Shri Avinash Deshmukh, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities.

7. Learned counsel for the applicant has submitted as per the contentions in Original Application. According to him, considering the reply of the respondents, the case of applicant may at the most fall under Section 22N(1)(e) of the Maharashtra Police Act. If the case of employee falls in this Section and also

in Section 22N(2) of the Maharashtra Police Act, then the highest competent authority for transfer is the State Government. In support of his submissions, learned counsel has relied on the decision of Hon'ble High Court of Bombay, Bench at Aurangabad in a case of **Purushottam Govindrao Bhagwat Vs. State of Maharashtra and Ors., 2012 (3) Bom.C.R. 442.**

On the other hand, learned Presenting Officer has submitted that the case of present applicant falls under proviso to Section 22N(1) and 22N(2) of the Maharashtra Police Act. According to him, respondent No. 3 himself has noticed irregularities in the work of applicant during inspection of Bidkin Police Station in September 2024. He has invited my attention to the minutes of PEB (page No. 136 of paper book). He has also submitted that there is a specific reference of meeting of Establishment Board pertaining to issue of transfer in the said minutes of PEB meeting. Therefore, it can be said that the respondents have issued transfer order under Section 22N of the Maharashtra Police Act and reference of Section 4 of the Transfer Act, 2005 in the impugned order seems to have been typographical mistake. In support of his submissions, learned Presenting Officer has placed reliance on the decision of Hon'ble

Supreme Court in a case of **Mrs. Shilpi Bose and Others Vs. State of Bihar and Others, AIR 1991 SC 532.**

8. It is undisputed fact that the applicant was serving as Police Inspector at Police Station Bidkin and as per order dated 11.10.2024, he was transferred to Police Control Room, Chh. Sambhajinagar. It is also undisputed fact that the applicant has joined on the transferred place. It is also undisputed fact that the applicant was posted at Bidkin Police Station as per order dated 20.01.2024. In view Section 22N(1)(c) of the Maharashtra Police Act, a normal tenure of Police Inspector shall be of two years at a Police Station or Branch. As per Section 2 of Maharashtra Police Act, definitions of General Transfer and Mid-term transfer are as under :-

**“2. Definitions**

*[(6A) "General Transfer" means posting of a Police Personnel in the Police Force from one post, office or Department to another post, office or Department in the month of April and May of every year, [after completion of normal tenure as mentioned in sub-section (1) of section 22N];*

*(6B) "Mid-term Transfer" means transfer of a Police Personnel in the Police Force other than the General Transfer”;*

So it is clear that the transfer of applicant as per impugned order is mid-term transfer.

9. Learned counsel for the applicant has submitted that the procedure as given in the Transfer Act, 2005 seems to have been adopted for transfer of this applicant, which is inapplicable. For that purpose, he has invited my attention to the impugned order dated 11.10.2024 (Annexure A-1, page No. 19 of paper book), wherein Section 4(4)(2) of the Transfer Act, 2005 is mentioned. It is also submitted that approval of the immediate superior authority seems to have been take vide order dated 11.10.2024 (page No. 137 of paper book). Copy of minutes of meeting of PEB at District Level dated 10.10.2024 is at page No. 136 of paper book.

Transfer of the applicant is within the district. It is also the case of respondents that some irregularities were noticed in the performance of the applicant while working at Bidkin Police Station. There were also complaint against the applicant from his subordinates and several Sarpanch's. So the learned Presenting Officer has submitted that the transfer of the applicant was in view of Section 22N(2) of the Maharashtra Police Act. In view of Section 22N (2) of the Maharashtra Police Act, Police Establishment Board at District Level is the competent authority for transfer.



Minutes of meeting of PEB dated 10.10.2024 (page No. 136 of paper book) itself shows that the meeting of PEB was held so as to decide the transfer on the ground of default and also transfer on request. PEB has also recorded in the minutes that considering the administrative exigency and law and order situation, certain transfers of the Police Officers including that of the applicant was recommended. So if wrong Section and Act is mentioned in the impugned order that will not be sufficient to hold that the impugned transfer order is illegal. Secondly, the report in respect of irregularities in performance of applicant and decision of PEB was decided to be forwarded to the Special Inspector General of Police, Chh. Sambhajinagar and the said report dated 10.10.2024 (page No. 134 of paper book) shows the reference of meeting of PEB for mid-term transfer dated 10.10.2024.

10. Learned counsel for the applicant has also submitted that while mentioning the reference at Sr. No. 1 in the impugned order, request transfer of this applicant is referred. The applicant has never requested for transfer. Same letter No. 2024/4852, dated 11.10.2024 referred at Sr. No. 1 in the impugned order is filed by the respondent Nos. 2 and 3 along with their affidavit in reply at page No. 137 of paper book. Subject in the said letter is

pertaining to the approval for mid-term transfer of the Police officers. So it is difficult to accept that PEB transferred the applicant on his request. Learned counsel has also submitted that after the meeting of PEB, approval of Special Inspector General of Police, Chh. Sambhajinagar was sought and accordingly, it was approved by the Special Inspector General, Chh. Sambhajinagar on 11.10.2024 (page No. 137 of paper book). So the respondents have tried to adopt the produce as given in Transfer Act, 2005. It is already discussed that PEB at District Level is the competent authority to transfer this applicant. So even if an approval was sought from Special Inspector General of Police and it was allowed, that can be said to be immaterial and irrelevant. On that count also the impugned order cannot be said to be illegal.

11. The respondents have specifically contended in their affidavit in reply that impugned order was passed in view of Section 22N of the Maharashtra Police Act on the count of exceptional circumstances and special reasons. The minutes of PEB also shows that considering the administrative exigency and also law and order situation, the meeting of PEB was held for transfer of the Police officials. The respondents have specifically contended that respondent No. 3 has noticed irregularities in the

work of applicant during the annual inspection of Bidkin Police Station for the year 2024-25, which was conducted between 09.09.2024 to 12.09.2024. Other contention in the affidavit in reply of respondents is that there was signed memorandum of Sarpanch's of 20 villages against the present applicant within the jurisdiction of Bidkin Police Station intimating about continuation of illegal activities in their area. It is also noticed by respondent no. 3 personally during inspection that there was no satisfactory progress in several matters of theft. It is also contended that the applicant could not handle law and order situation. These contentions are not specifically denied by the applicant in his rejoinder affidavit, though an opportunity was available. It appears that respondent No. 3 has already communicated above noted irregularities, non-progress in the offences of theft, complaints of Sarpanch etc. in the report dated 10.10.2024 (page No. 134 of paper book). This report also shows that Members of PEB have discussed all these issues and also considered the law and order situation, which would be required during upcoming Assembly Election-2024. Administrative exigency means a need or demand for running a good administration. This is intrinsically connected with public interest. It also cannot be ignored that the respondent No. 3-

Superintendent of Police (Rural), Chh. Sambhajinagar, who is also one of the Members of PEB meeting, has contended in affidavit in reply regarding irregularities, which he noticed during the annual inspection of Police Station Bidkin by him. So the respondents tried to contend in para No. 6 of their affidavit in reply that irregularities noticed during inspection shows incapability of the applicant. It can be said to have been covered under clause (d) of proviso to Section 22N(1) of the Maharashtra Police Act. Section 22N(2) says that in addition to the grounds mentioned in sub-section (1), in exceptional cases, in public interest and on account of administrative exigencies, the Competent Authority can make mid-term transfer of any Police Personnel of the Police Force. Thus the discussions above lead me to say that the transfer order of applicant was due to administrative exigency and in public interest.

12. Learned counsel for the applicant has submitted that if the transfer is on one of the grounds of clause (a) to (e) of proviso to Section 22N(1) of the Maharashtra Police Act, the State Government is the competent authority for transfer. He has also referred Section 22N(2) along with proviso of it. He has submitted that in addition to the grounds mentioned in sub-section 22N(1) and also in case of exceptional cases, in public

interest and on account of administrative exigencies, the Competent Authority can make mid-term transfer. By referring proviso to Section 22N(2), learned counsel for the applicant has submitted that in such matters where grounds under proviso to Section 22N(1) and grounds under Section 22N are available, then the highest competent authority would be the State Government i.e. Hon'ble Chief Minister. I do not agree with this submissions because proviso to Section 22N(2) is to be read for that particular Section. Secondly, in my opinion, the word "in addition" used in Section 22N(2) of the Maharashtra Police Act would mean "besides". So as per Section 22N (2) there can be mid-term transfer by competent authority on the ground of exceptional cases, in public interest and on account of administrative exigencies besides the grounds mentioned in Section 22N(1).

13. Reliance also can be placed in a case of **Ashok s/o Rangnath Barde Vs. State of Maharashtra and Ors., 2019(3) Mh.L.J. 851**. It is held by Hon'ble High Court of Bombay, Bench at Aurangabad in para No. 14 as under :-

*"14. Literal interpretation of the Proviso would indicate that the Chief Minister has also been vested with a power to effect transfers on the grounds contained in the Proviso, without*

*reference to Police Establishment Board or other Competent Authorities described therein.”*

14. So for the reasons discussed above, it is difficult to accept the submission of learned counsel for the applicant that the State Government would be the competent authority to transfer the applicant.

15. learned counsel for the applicant has relied on the decision of Hon'ble High Court of Bombay, Bench at Aurangabad in a case of **Purushottam Govindrao Bhagwat** (cited supra) and particularly para No. 9, wherein it is held as under :-

*“9] By now, it is a settled principle of law that all the provisions of the statute are required to be construed in harmony with one another and construction has to be done in such a manner that each provision in the statute will have its play. Construction of the provision cannot be done in a manner, which, while giving effect to one provision of the statute, will make another provision redundant or nugatory.....”*

This matter pertains to transfer under the Transfer Act, 2005 and cannot be helpful to the applicant.

16. The applicant has prayed for direction to the respondents to decide representation dated 14.10.2024. Copy of the said representation is at page No. 43 of paper book

(Annexure A-4). He has mentioned that though he has not requested for transfer, the impugned order shows that transfer is on request. It is already discussed in foregoing paragraphs that the said letter referred at Sr. No. 1 in the impugned order pertains to approval for transfer by the Special Inspector General of Police. It is already discussed that the transfer of the applicant was on the basis of administrative exigency and public interest. Thus this said prayer cannot be allowed.

17. Thus the discussions in foregoing paragraphs lead me to say that 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.

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

**PLACE : Aurangabad**  
**DATE : 05.05.2025**

**KPB S.B. O.A. No. 1335 of 2024 ANK Transfer**