

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.517 OF 2024

**DISTRICT: KOLHAPUR
SUBJECT: TRANSFER**

- | | | | |
|----|-------------------------------------|---|----------------------|
| 1) | Shri Prasad Dharmraj Katkar, |) | |
| | Age- 42 Year |) | |
| | Working as- Deputy Commissioner, |) | |
| | Ichalkaranji Municipal Corporation, |) | |
| | Dist. Kolhapur |) | |
| | R/at – A 2, 201, Dreams Estate, |) | |
| | near JSPM College, Handiwadi Road |) | |
| | Hadapsar, Pune 411 028 |) | ... Applicant |

Versus

- | | | | |
|----|---|---|------------------------|
| 1) | State of Maharashtra |) | |
| | Through Principal Secretary, |) | |
| | Urban Development Department, |) | |
| | Mantralaya, Mumbai – 400 032 |) | |
| 2) | The Commissioner |) | |
| | Pune Municipal Corporation |) | |
| | Shivaji Nagar, Pune – 411 005 |) | |
| 3) | The Commissioner |) | |
| | Ichalkaranji Municipal Corporation |) | |
| | Ichalkaranji |) | |
| 4) | Additional Chief Secretary and |) | |
| | Chief Electoral Officer, |) | |
| | General Administration Department |) | |
| | 5 th Floor, Mantralaya, Madam Cama Road, |) | |
| | Hutatma Rajguru Chowk, Mumbai 4000 32 |) | ... Respondents |

Smt. Punam Mahajan, learned Advocate for the Applicant.

Smt. Kranti S. Gaikwad, learned Chief Presenting Officer for the Respondents.

Shri Aditya S. Raktade, learned Advocate for Respondent No.3

CORAM : DEBASHISH CHAKRABARTY, MEMBER (A)

DATE : 01.10.2024

JUDGMENT

1. The Applicant has invoked provisions of 'Section 19' of 'The Administrative Tribunal Act 1985' to challenge Government Order dated 19.03.2024 of Urban Development Department by which he was transferred from post of 'Deputy Municipal Commissioner, PMC' and also Government Order dated 26.03.2024 of Urban Development Department by which he was subsequently transferred to post of 'Deputy Municipal Commissioner; Ichalkaranji Municipal Corporation'.

2. The learned Advocate for Applicant stated that Applicant had on promotion been transferred to post of 'Deputy Municipal Commissioner, PMC' by Government Order dated 25.07.2023 of Urban Development Department. Therefore, Applicant did not come under purview of subsequent directions in Election Commission of India letter dated 18.03.2024 which was made applicable only to those 'Municipal Commissioners/Additional Municipal Commissioners/ Deputy Municipal Commissioners' who had served for more than 3 Years on their present posts and were posted in their Home Districts.

3. The learned Advocate for Applicant further stated that plain reading of 'Para-6' of subsequent directions in Election Commission of India letter dated 18.03.2024 indicated that while there was expression of displeasure about non implementation of 'Para 5.2' of earlier directions in Election Commission of India letter dated 21.12.2023; there was specific insistence on transfer of only those 'Municipal Commissioners/ Additional Commissioners/ Deputy Municipal Commissioners' who had served for more than 3 years on their present posts and were posted in their Home Districts.

4. The learned Advocate for Applicant contended that Applicant had not completed tenure of 3 years on post of 'Deputy Municipal Commissioner, PMC' and Solapur District is his Home District. Thus Applicant was under bonafide belief that he would not be transferred as he did not fall within purview of criteria mentioned in 'Para - 6' of subsequent directions in Election Commission of India letter dated 18.03.2024. However due to misinterpretation of these set of directions; Applicant came to be transferred 'Mid Term' and 'Mid Tenure' from post of 'Deputy Municipal Commissioner, PMC' by Government Order dated 19.03.2024 of Urban Development Department which were issued under provisions of 'Section 4 (4)(ii)' and 'Section 4 (5)' of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'.

5. The learned Advocate for Applicant then explained some nuances relating to applicability of subsequent directions in Election Commission of India letter dated 18.03.2024 by contending that posts for cadre of 'Chief Officer - Group-A' have been sanctioned on establishments of various Municipal Corporations on basis of criteria decided by Government Resolution dated 22.02.2022 of Urban Development Department. The 'Staffing Pattern' applicable necessitates that officers who were directly appointed by respective Municipal Corporations and are now serving at equivalent levels have to fill up 50% of such posts in Municipal Corporations. The remaining 50% of such posts in Municipal Corporations are required to be filled up from amongst officers from cadre of 'Chief Officers, Group - A' or other 'Civil Services' of State Government. Therefore subsequent directions in Election Commission of India letter dated 18.03.2024 were implemented in discriminatory manner as all officers directly appointed by respective Municipal Corporations who had never been subject to any transfers outside jurisdictions of their Municipal Corporations; were not even shifted locally after serving for more than 3 Years on their present posts or if they were serving in their Home District. Hence, implementation of

subsequent directions in Election Commission of India letter dated 18.03.2024 has violated 'Principles of Equity'.

6. The learned PO on the other hand stated that earlier directions in Election Commission of India letter dated 21.12.2023 regarding transfers were applicable to officers from cadre of 'Chief Officer, Group – A' as per contents of 'Para 5.2' which mentions about officers who are deputed in 'Municipal Corporations' and 'Development Authorities'.

7. The learned PO further stated that subsequent directions in Election Commission of India letter dated 18.03.2024 were issued to specifically seek 'Compliance Reports' about transfers of such 'Municipal Commissioners/ Additional Municipal Commissioners/ Deputy Municipal Commissioners' arising out of non-implementation of earlier directions in Election Commission of India letter dated 21.12.2023.

8. The learned PO further clarified that subsequent directions in Election Commission of India letter dated 18.03.2024 had intendment to ensure transfer of all those 'Municipal Commissioners/ Additional Municipal Commissioners/ Deputy Municipal Commissioners' who were eligible as per contents of 'Para 3' read with 'Para 5.2' of earlier directions in Election Commission of India letter dated 21.12.2023 irrespective of the fact whether or not they had been assigned any specific election duty, as due consideration was required to be given to not only tenure of more than 3 Years on their present posts and if they were posted in their Home District but also their past service in 'Revenue District'.

9. The learned PO emphasized that 'Commissioner, PMC' by letter dated 18.03.2024 had confirmed that Home District of Applicant was Solapur District. Thus as per contents of 'Para 3' read with 'Para 5.2' of earlier directions in Election Commissions of India letter dated 21.12.2023 and based on contents of 'Para-6' of subsequent directions

in Election Commission of India letter dated 18.03.2024, Applicant was required to be transferred irrespective of non-completion of tenure of 3 Years on post of 'Deputy Municipal Commissioner, PMC'.

10. The learned Advocate for 'Municipal Commissioner, Ichalkaranji' stated that they will abide by any further directions that Urban Development Department may issue in respect of Applicant; as he is now serving on post of 'Deputy Municipal Commissioner, Ichalkaranji'.

11. The Urban Development Department as is evident from observations made above has at best only partially implemented subsequent directions in Election Commission of India letter dated 18.03.2024 in respect of all categories of officers who occupy posts of 'Municipal Commissioners/ Additional Municipal Commissioners/ Deputy Municipal Commissioners' because upto 50% officers who were serving on such posts having been directly appointed by respective Municipal Corporations were not considered as eligible even for lateral transfers although serving for more than 3 Years on their present posts or if they were posted in Home District; while many of the remaining 50% officers were immediately transferred just because they belonged to cadre of 'Chief Officer, Class – A' under Urban Development Department or other 'Civil Services' of State Government making them amenable to provisions of 'Section 4(4)(ii)' and 'Section 4(5)' of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'.

12. The Urban Development Department thus on account of 'Staffing Pattern' resulting in institutional limitations from sub-categorization of such posts was probably left with no option but to adopt selective approach in effecting transfers of some 'Municipal Commissioners/ Additional Municipal Commissioners/ Deputy Municipal Commissioners' while most expeditiously implementing subsequent directions in Election

Commission of India letter dated 18.03.2024. Thus, from perspective of law; what has occurred is 'Invidious Discrimination' against Applicant resulting from discernible contravention of 'Principles of Equity' which collaterally led to 'Arbitrary Exercise' of 'Statutory Powers'. The Applicant who was serving on post of 'Deputy Municipal Commissioner, PMC' came to be transferred only because he belongs to cadre of 'Chief Officer, Grade-A' under Urban Development Department and was ineliminable from overarching provisions of 'Section 4(4)(ii)' and 'Section 4(5)' of the 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'.

13. The contents of 'Para-6' of subsequent directions in Election Commission of India letter dated 18.03.2024 were undoubtedly applicable to all categories of officers who occupy posts of 'Municipal Commissioners/ Additional Municipal Commissioners/ Deputy Municipal Commissioners in Municipal Corporation'; but notwithstanding semantics they certainly did not supplant contents of 'Para 3' read with 'Para 5.2' of earlier directions in Election Commission of India letter dated 21.12.2024. The subsequent directions in Election Commission of India letter dated 18.03.2024 only emphasized on stringent implementation of transfers of all categories of officers occupying posts of 'Municipal Commissioners/ Additional Municipal Commissioners/ Deputy Municipal Commissioners' in case they had completed 3 Years on their present post or were serving their in Home Districts. The criteria of completion of 3 Years on present posts concomitantly would also fulfill the criteria of 3 Years tenure during last 4 Years in any 'Revenue District'.

14. The case of Applicant which is based on grounds of not having completed 3 Years on post of 'Deputy Municipal Commissioner, PMC' may not deserve independent consideration through hyper interpretation of contents of 'Para 3' read with 'Para 5.2' of earlier directions in Election Commission of India letter dated 21.12.2023 and contents of

'Para 6' of subsequent directions in Election Commission of India letter dated 18.03.2024; but certainly contention of Applicant about validity of his 'Mid Term' and 'Mid Tenure' transfer from post of 'Deputy Municipal Commissioner, PMC' by Government Order dated 19.03.2024 of Urban Development Department would still have to be examined from perspective of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'.

15. The 'Statutory Rights' of Government Servants in the form of assurance of 'Normal Tenure' of 3 Years on any post as per 'Section 3(1)' are subject to reasonable restrictions arising out of any 'Exceptional Circumstances' or 'Special Reasons' as contemplated under 'Section 4(4)(ii)' & 'Section 4(5)' of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'. Nonetheless aggregation of tenures of various posts to cross threshold of 3 Years when serving in any 'Revenue District' or enforcement of bar on service in Home District are certainly not incorporated as eventualities under 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005' to result in transfers of Government Servants out of any 'Revenue District'. Further atypical criteria in 'Para 3' of earlier directions in Election Commission of India letter dated 21.12.2023 cannot attain status of precedence for effecting 'Mid Term' and 'Mid Tenure' transfers of Government Servants; thereby seriously undermining the 'Basic Structure' of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'.

16. The subsequent directions in Election Commission of India letter dated 18.03.2024 were issued against the backdrop of sharp insistence on immediate transfer of incumbent 'Municipal Commissioner MCGM' who belongs to 'All India Services'. An appropriate interpretation of

contents of 'Para 6' of subsequent directions in Election Commission of India letter dated 18.03.2024 was therefore to have been made by Urban Development Department based on some 'Intelligent Differentia'. Necessary to also observe here is that 'Para 6' of earlier directions in Election Commission of India letter dated 21.12.2023 has some words of adequate caution as well for State Government; because it mentions that *"During an election, a large number of employees are drafted for different types of election duly and commission has no intention of massive dislocation of state machinery by large scale transfer."*

17. The Urban Development Department was expected to be much more diligent about understanding the intended usage of specific phrase *"officers connected directly with elections"* in 'Para 3' of earlier directions in Election Commission of India letter dated 21.12.2023 before effecting large scale transfers of 'Municipal Commissioners/ Additional Municipal Commissioners/ Deputy Municipal Commissioners' based on contents of 'Para 6' of subsequent directions in Election Commissioner of India letter dated 18.03.2024.

18. The Applicant against this expansive backdrop has sought to be transferred back to post of 'Deputy Municipal Commissioner, PMC' even after having willingly joined on post of 'Deputy Municipal Commissioner; Ichalkaranji Municipal Corporation'. The grievance of Applicant must thus be examined from a wider perspective going beyond interpretation of contents of 'Para 3' read with 'Para 5.2' of earlier directions in Election Commission of India letter dated 21.12.2023 and contents of 'Para 6' of subsequent directions in Election Commission of India letter dated 18.03.2024.

19. The Applicant had displayed obedience to directions in Government Order dated 19.03.2024 of Urban Development Department by forthwith joining on post of 'Deputy Municipal Commissioner; Ichalkaranji Municipal Corporation' which must be appreciated; as it was in

conformity to 'Rule 3(1)' of 'M.C.S.(Conduct) Rules 1979'. The conduct of Applicant at the same time should not to be understood as that of quite acquiescence to contents of 'Para 3' and 'Para 5.2' of earlier directions in Election Commission of India letter dated 21.12.2023 and contents of 'Para 6' of subsequent directions in Election Commission of India letter dated 18.03.2024 as these were inherently destined for cessation upon completion of 'General Election Lok Sabha 2024'. The grievance of Applicant has to be viewed from veracious perspective of it being an instance of any Government Servants expression of fidelity towards enforcement of 'Statutory Rights' granted under 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005' and unflinching belief in 'Principles of Equity' and 'Tenets of Objectivity' whenever collective decisions about transfers of Government Servants are taken by 'CSB'.

20. The transfer of Applicant from post of 'Deputy Municipal Commissioner, PMC' by Government Order dated 19.03.2024 of Urban Development Department which evidently is both 'Mid Term & 'Mid Tenure' would probably not have happened; but for implementation of subsequent directions in Election Commission of India letter dated 18.03.2024.

21. The extracts from following Judgments passed by (i) 'Hon'ble High Court of Bombay' (ii) 'Hon'ble High Court of Jharkhand' and (iii) 'Hon'ble High Court of Karnataka' are reproduced below for contextual clarity about plenary powers of 'Election Commission of India' under 'Article 324' of 'Constitution of India' and transient nature of the provisions of 'Section 28A' of 'The Representations of Peoples Act, 1951'.

22. The **'Hon'ble Bombay High Court'** in its Judgment dated 04.04.2018 in **Writ Petition No. 6041 of 2017** has observed the following:-

(i) "The petitioners and others were transferred on consideration of guidelines/directives of the State

Election Commission and in view of the initiation of process of election for local authorities and since the purpose for which they were shifted before completion of their normal tenure, is already over and the process of election has come to an end long back, it would be open for the State to pass appropriate orders of transfer for reposting them at an appropriate place, in observance of the procedure prescribed under the Transfer Act.”

(ii) “Apart from this, it also deserves to be considered that the orders of transfer have been given effect more than a year back and any interference, at this stage, would amount to displacement of several employees thereby creating difficulties in the administration. The orders of transfer are expected to be issued considering the administrative exigencies. However, as has been noted above, interference at this stage, would, instead of, protecting interest of the administration, would created difficulties, as has been canvassed by the State. In this view of the matter and for the reasons recorded above, according to us, orders passed by the Maharashtra Administrative Tribunal, directing to quash the orders of transfer under the impugned judgment and order dated 24.04.2017, deserves to be quashed and set aside and same is accordingly quashed and set aside. It is, however, made clear that it would be open for the State to pass appropriate orders transferring the employees, if deemed necessary for administrative exigencies while effecting regular process in the months of April-May, 2018”.

23. The **‘Hon’ble Bombay High Court’** in its Judgment dated 07.12.2016 in **Writ Petition No. 9499 of 2016** has observed the following:-

(i) “It is likely that in some cases, some inconvenience could be caused to the employees who had been transferred due to holding of elections in a particular district or local area, but keeping in view the larger public interest, if the State Election Commissioner had taken a decision, the State Government would implement the same keeping in view constitutional intent and spirit and for holding free and fair elections. It is informed that in the State of Maharashtra, election process relating to elections of Corporations, Councils,

Panchayats, Zilla Parishad, Village Panchayat is already set in motion”.

(ii) “The State Government and the State Election Commissioner are free to contemplate on the issue of transfer of officers keeping in view various aspects for consideration and frame a proper policy for future with sole objective of holding free and fair election”.

24. The **‘Hon’ble High Court of Jharkhand’** in its Judgement **(Anurag Gupta v. The Election Commission of India & Ors)** as reported in **W.P.(S) No.1714 of 2019** in ‘Paragraph 25’ to ‘Paragraph 28’ has observed the following:-

“25. From perusal of Section 28A, it is clear that all the Officers, like Returning Officer, Assistant Returning Officer, Presiding Officer, Polling Officer and any other officer appointed under Part IV of the Act of 1951 and any police officer designated for the time being by the State for conduct of any elections shall be deemed to be on deputation to the Election Commission for the period commencing on and from the date of notification calling for such election till the date of declaration of the result. The said Section 28A also provides that all such Officers, during the aforesaid period, shall be subject to the control, superintendence and discipline of Election Commission.

26. Thus, this clause provides that not only the designated police officer will be on deputation to the Election Commission, but, they shall during the said period will be under the control, superintendence and discipline of the Election Commission of India.

27. In terms of Section 28A, the State of Jharkhand has issued a notification bearing No. 13/P-1-101-2019-1498 on 19th March, 2019 designating, on amongst others, Additional Director Generals of Police as “designated officers”. The petitioner, in the instant case is Additional Director General of Police, thus, there is no doubt that the petitioner is also a designated officer for the purpose of Section 28A of the Representation of the People Act for the 17th Lok Sabha Elections.

28. Once the petitioner is designated by notification, as a “designated officer”, as per Section 28A of the Act of 1951, he is deemed to be on deputation to the Election

Commission for the entire period of election. By virtue of such deputation and by virtue of Section 28A of the Act of 1951, he is also under direct control, superintendence and discipline of the Election Commission of India.

25. The **‘Hon’ble High Court of Karnataka’** in its Judgment **(Election Commission of India v. State of Karnataka & Ors)** as reported in **W.P. Nos.17123-124 of 2013, 17295-297 of 2013 & 17298-299 of 2013 (S-CAT)** in ‘Paragraph 27’ to ‘Paragraph 30’ has held as under:-

“27. Therefore under the scheme of the Act, clause (6) of Article 324 of the Constitution, read with Section 13CC of 1950 Act and Section 28A of the 1951 Act, makes it clear that the Government officials who are under the control of the Government when they are deputed to the Election Commission for the purpose of conduct of elections, their deputation would commence on and from the date of notification calling for such election and ending with the date of declaration of the results of such election. There is no law passed by the Parliament or the State Legislature providing for such transfer or deputation or appointment during the period of General Election. When there is no Parliamentary legislation or Rule made under the said legislation, the Commission is free to pass any orders in respect of the conduct of elections. Once the area is not covered by any legislation, then Article 324 being a reservoir of power, confers on the Election Commission power to pass such appropriate orders or issue such appropriate direction for conduct of free and fair election.

28. It is by virtue of such power conferred on the Election Commission, it has issued directions to the State Government to make available the officers who in their opinion are needed for conduct of election. In obedience of the said direction issued, the Government has passed the impugned order of transfer. Though in the impugned order, the word ‘transfer’ is used, it is to be understood in the context in which it is passed. It is not a transfer which is governed by All India Services Rules framed under the All India Services Act, 1951. The said Rule does not provide for transfer of a person

appointed to the All India Service, to the Election Commission during election. Therefore when the said law is silent about how the services are to be utilized during elections, the Election Commission has a free hand and if it requests or directs the Government, the Government is bound to honour the said request/direction. The Election Commission has not assigned any reasons why they are displacing these applicants. The Election Commission has no obligation to give reasons for opting for such officers. Similarly, they are under no obligation to give reasons why the person incumbent is not required. It is the matter of confidence the Election Commission has in a particular officer. Having regard to the number of days these persons are going to be displaced, there is no obligation cast on the Election Commission either to give reasons or point out in what circumstances these transfers are effected. It is made clear that when a Government servant is transferred on a direction issued by the Election Commission, the said direction is to be understood in the context of conducting free and fair election. It has no reflection on the integrity or character or the capacity or competence of the said person. It cannot, under any circumstances, be held against him. The apprehension of the applicants that in the eye of the public or otherwise, it may amount to stigma, is without any substance. The impugned order does not cast any stigma on the applicant. Once the election process is over, they will be reverted back to their original position and therefore they cannot have any grievance whatsoever. As the period during which the transfer will be in force is a very short period and the purpose of such transfer being to conduct free and fair election, the said action cannot be found fault with on any count. In the matter of election, when the ultimate responsibility is that of the Election Commission, being a Constitutional authority, they have onerous responsibility of conducting free and fair election in order to preserve democracy in the country. It is to achieve the said object, for a limited period, the impugned order is passed.

29. The argument that the Election Commission, even though they chose to requisition the services of these officers from the Government for election work and if they are to be transferred and posted before the expiry of the minimum tenure, they should make a request to

the State Government, which in turn should make a request to the Committee to consider their case and make recommendation and then only they can be posted, holds no water. The said rule is not meant to deal with a situation where elections are announced to the Legislative Assembly. It is not a case of transfer. It is a case of deemed deputation. The said rule is silent and therefore under Article 324 of the Constitution, the Commission has the power to issue directions to transfer and post the officials for the proper conduct of the elections.

30. In the instant case, after preliminary preparations are made for conducting election, before issue of notification calling for the elections, the Election Commission wanted these respondents-4 to 10 to be posted in place of applicants during the period of election. Once they are so posted, after the issue of notification, they are deemed to be on deputation to the Election Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of results of such election and accordingly such officers shall, during that period are subject to control, superintendence and discipline of the Election Commission. Therefore the order passed by the Election Commission directing the State to post these officers in the place suggested by them would result in deemed deputation to the Election Commission for the aforesaid period. Once declaration of results of such election is announced, the said deputation comes to an end and at the end of the deputation, the officers are reverted back to their parent organization (previous post held by them)."

26. The 'Notifications' which may have been issued under 'Section 28-A' of 'The Representation of People's Act, 1951' in respect of all categories of officers who were serving on posts of 'Municipal Commissioners/ Additional Municipal Commissioner/ Deputy Municipal Commissioners' have since ceased to have effect after completion of 'General Elections: Lok Sabha 2024'. So also period of 'Deemed Deputation' to 'Election Commission of India' of all such officers have now come to an end and they stand reverted back to establishment of Urban Development Department.

27. The 'Mid Term' and 'Mid Tenure' transfer of Applicant from post of 'Deputy Municipal Commissioner, PMC' was effected based only on criteria in 'Para 3' read with 'Para 5.2' of earlier directions in Election Commission of India letter dated 21.12.2023 read with 'Para 6' of subsequent directions in Election Commission of India letter dated 21.12.2023 but it was an infraction of assurance of 'Normal Tenure' of 3 Years given to Applicant under 'Section 3(1)' the 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'. Hence, post the conduct of 'General Election Lok Sabha: 2024', expansive 'Statutory Power' under 'Section 4(4)(1)' and 'Section 4(5)' of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005' must be exercised again by 'Competent Transferring Authority' and next 'Superior Transferring Authority' in respect of Applicant; so as to affirmatively uphold intendment of this 'State Legislation' which must exclusively continue to govern all matters of 'Transfers & Postings' of 'Government Servants'.

28. The Urban Development Department is thus directed to seek consent from Applicant if he wishes to continue on present post of 'Deputy Municipal Commissioner; Ichalkaranji Municipal Corporation' having willingly joined there as per Urban Development Department Order dated 24.03.2024. Otherwise; based on essence above referred Judgments of Hon'ble Bombay High Court & Other High Courts which have distinctly espoused the cause of displaced 'Government Servants' to be reverted back to their earlier posts even if they had been included in 'Notifications' issued under 'Section 28-A' of 'The Representation of Peoples Act 1951'; no option would now be left for Urban Development Department but to forthwith transfer Applicant back to 'Vacant Post' of 'Deputy Municipal Commissioner, PMC' from within 50% quota earmarked for 'Chief Officer, Grade - A' & other 'Civil Services' of State Government. The Applicant would then be entitled to complete the

balance of 'Normal Tenure' of 3 Years under 'Section 3(1)' subject to reasonable restrictions under 'Section 4(4)(ii)' & 'Section 4(5)' of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'. However, in eventuality of any impediment arising out of enforcement of new directions in Election Commission of India letter dated 31.07.2024 regarding forthcoming 'General Elections: Maharashtra Legislative Assembly 2024'; the 'Vacant Post' of 'Deputy Municipal Commissioner, PMC' is not to be filled up in the interim and above orders in respect of Applicant shall be implemented by Urban Development Department within 'Four Weeks' of completion of 'General Elections: Maharashtra Legislative Assembly 2024'.

ORDER

- (i) The Original Application No. 517 of 2024 is Allowed.
- (ii) No Order to as Costs.

Sd/-
(Debashish Chakrabarty)
Member (A)

Place: Mumbai
Date: 01.10.2024
Dictation taken by: A.G. Rajeshirke.

Uploaded on:_____