

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO 1337 OF 2024**

**DISTRICT : SATARA**

Kondiram N. Patil	)	
Sr. Police Inspector,	)	
Karad City Police Station,	)	
Dist-Satara and residing at	)	
Oriana C.H.S Ltd, Flat No. B-1002	)	
Near Mayur Nagari, Pimpale Gurav,	)	
Pune – 61.	)	<b>... Applicant</b>

**Versus**

- |    |                                     |   |                        |
|----|-------------------------------------|---|------------------------|
| 1. | Government of Maharashtra,          | ) |                        |
|    | Through the Addl. Chief Secretary,  | ) |                        |
|    | Home Department,                    | ) |                        |
|    | Mantralaya, Mumbai.                 | ) |                        |
| 2. | The Superintendent of Police,       | ) |                        |
|    | Satara                              | ) |                        |
|    | 93, Malhar Peth, Satara 415 002.    | ) |                        |
| 3. | Chief Electoral Officer,            | ) |                        |
|    | Maharashtra State, having office at | ) |                        |
|    | Mantralaya, Mumbai 400 032.         | ) |                        |
| 4. | Shri Raju Ananda Tashildar,         | ) |                        |
|    | Police Inspector, Satara,           | ) |                        |
|    | Dist-Satara.                        | ) | <b>... Respondents</b> |

Shri M.D Lonkar, learned counsel for the Applicant.

Ms Swati Manchekar, learned C.P.O for the Respondents.

**CORAM : Justice Mridula Bhatkar (Chairperson)**

**DATE : 23.10.2024**

## **J U D G M E N T**

1. I had made it clear to the parties that Judicial Review, is going to be allowed. At the time of submissions of the Review Application, learned C.P.O for the applicants (Ori Respondents) and learned counsel Mr. Lonkar for the Respondent (Ori. Applicant) have made submissions at length on merit.

2. Admit.

3. In the present case, the two documents Court Exhibit-I and Court Exhibit-II were produced without Affidavit by the Respondent.

4. Learned Counsel Mr. Lonkar has objected to the production of these documents across the Bench without Affidavit. He has submitted that the affidavit is required to be filed to that effect.

5. The objection of learned Counsel is overruled on following grounds :

- (i) The copies of the documents are also furnished to learned Counsel and the Applicant is present in the Court hall.
- (ii) The document which is numbered as Exhibit-I is signed by the applicant and he has knowledge of the contents of the said document.

As per Section 22 of the Administrative Tribunals Act the Tribunal shall be guided by the principles of natural justice and shall have power to regulate its own procedure including the fixing of places and for expeditious hearing. The Tribunal can, by giving fair opportunity of audience to all the parties, need not insist for strict compliance of the procedural law.

6. The said document required to be reproduced:-

"Court Exhibit I

दिनांक - ५/२/२०२४

प्रमाणपत्र

प्रमाणीत करण्यात येते की, सातारा जिल्ह्यामध्ये उपविभागामध्ये ३ वर्षे झालेली असून / नसून त्यानुसार दुस-या विभागामध्ये बदली करण्यात आलेली आहे. / गुन्हा दाखल असल्याने / नसल्याने / स्वग्राम असून / नसून त्यानुसार अकार्यकारी पदावर बदली झालेली / कार्यरत आहे.

Sd/-

ठिकाण - सातारा

दिनांक - ५/२/२०२४

पोलीस अधिकारी यांचे नाव

हुद्दा

अरुण रामचंद्र देवकर

पोलीस निरीक्षक

स्थागुशा, सातारा"

"Court Exhibit II

दिनांक - /०२/२०२४

This is sample Performa & following is the declaration of the Applicant.

प्रमाणपत्र

प्रमाणीत करण्यात येते की, उपविभागांमध्ये ३ वर्षे झालेली असून /नसून त्यानुसार दुस-या विभागामध्ये बदली करण्यात आलेली आहे. / स्वग्राम असून त्यानुसार अकार्यकारी पदावर बदली झालेली / कार्यरत आहे.

सातारा जिल्हा पोलीस .....

आस्थापनेवर दि 1 : 02/06/23 रोजी

हजर झालो आहे.

ठिकाण- कराड

दिनांक - 03/02/24

Sd/-

पोलीस अधिकारी यांचे नाव

हुद्दा

वरिष्ठ पोलीस निरीक्षक

कराड शहर वो ठाने"

Thus declaration regarding pendency of the criminal case in the Court is conspicuously missing in this declaration given by the Applicant.

7. At the time of hearing, it is pointed out that while passing order under Sec 156(3) of Cr. P.C on 22.12.2012 learned Judicial Magistrate has directed the Police to investigate in the matter under Section 166A of IPC. The Police thereafter registered the

offence under Sec 166A of IPC criminal case at C.R No. 787/2021 on 27.12.2021 at Tembhurni Police Station, Dist-Solapur. As the offence under Sec 166A is cognizable offence the Police is required to submit copy of the FIR in the Court of JMFC within 24 hours. It is informed that it is submitted. Thus, the case is pending since then in the Court of the JMFC. The Notice was issued to the applicant by the Police informing the registration of the offence against him. The Hon'ble Supreme Court in ARNESH KUMAR Vs. STATE OF BIHAR & ORS AIR 2014 SC 2756 that if the punishment is less than seven years, then the accused should not be arrested under Sec 41 directly without giving notice. The Police have produced the receipt of the notice signed by the accused. Thus, the applicant was fully aware of the pendency of the case against him.

8. Moreover, in the present case, the charge-sheet is filed under Sec 173 of Cr. P.C on 13.1.2024. Learned counsel Mr Lonkar has argued that issuance of process by the Magistrate after accepting the charge sheet is necessary for taking cognizance by the Magistrate of the offence and then only it can be said that case is "pending" against any person in the court of law. In order to support his submissions, learned counsel relied on the judgment of the Hon'ble Bombay High Court Ordinary Original Civil Jurisdiction in **Writ Petition (L) No.14496/2024, Kartik Vaman Bhatt Vs. Union of India & Ors., decided on 21.06.2024.**

9. The Form-5 in the nature of declaration are required to be filled in as the directions are given by the Election Commission that the Police Officer has to disclose about the pendency of the Criminal Case, if pending in the Court of Law. Learned Counsel on instructions from the applicant has submitted that the applicant has rightly filled up the form, marked as Court Exhibit-II on

03.02.2024 and hence cannot be held responsible for the suppression the fact of pendency of the case against him.

10. In the case of **Kartik Vaman Bhatt (supra)** the Hon'ble Division Bench was dealing with the Passport Act, 1967 and wherein Private Case was filed. In the present case the facts are different. The case is registered by the police for cognizable offence and copy of the FIR is forwarded to the learned Magistrate. It is to be noted that Hon'ble Supreme Court and Hon'ble High Court discuss many nuances while interpreting the statute. The Government servant may or may not be aware of it. However, it is expected that he should understand the order with common man's understanding of the legal terminology. If, at all, he has any doubt about the same it is his duty to approach the higher authority and get it clarified so the applicant cannot capitalized playing with the words i.e. 'Pending Case' in the court. He had knowledge that a case is registered against him & pending in the court of JMFC Tembhurni.

11. Thus the order of Transfer issued by the Respondent on the ground of pendency of criminal case against the Applicant cannot be faulted with. Hence the Application is dismissed.

12. At this stage, learned counsel Mr. Lonkar requests for stay to the present order for reasonable period of two weeks so as to enable the Applicant to approach the Hon'ble High Court. Learned CPO opposes request so prayed for.

13. In view of peculiar facts and circumstances mentioned therein above request stands rejected.

14. I appreciate the able assistance of Superintendent of Police, Satara, Mr Sameer Shaikh who vigilantly read the order and pointed out the error.

**Sd/-**  
**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 23.10.2024.**  
**Dictation taken by : A.K. Nair.**