

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 278 OF 2024

(Subject:- Transfer)

DISTRICT:-AHMEDNAGAR

Chandrakant s/o Narayansing Hajari,)
Age: 56 Occu: presently working as)
Assistant Block Development Officer,)
Panchayat Samiti, Dindori, District: Nashik)
R/o. Aman 10, Siddheshwar Colony,)
Shivaji Nagar, Sinnar District: Nashik.)
Mob. No. 9822083161) **APPLICANT**

V E R S U S

- 1. The State of Maharashtra**)
(Through its Principal Secretary,)
Rural Development Department,)
3rd Floor, Bandhkam Bhavan,)
25, Marzban Path, Fort)
Mantralaya, Mumbai-01.)
- 2. State Election Commission,**)
New Administrative Building,)
5th Floor, Mantralaya,)
Mumbai-32.)
- 3. Anant s/o Uddhavrao Pardeshi**)
Age Major, Occ: Assistant Block)
Development Officer, Rahuri)
District: Ahmednagar.) **RESPONDENTS**

APPEARANCE : Shri V.B. Wagh, learned counsel for
the applicant.
: Shri D.M. Hange, learned Presenting
Officer for the respondent authorities.

CORAM : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

DATE : **16.04.2024.**

ORAL - ORDER

Heard Shri V.B. Wagh, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities finally with consent at admission stage.

2. By way of filing this Original Application the applicant is challenging the transfer order dated 16.02.2024, thereby transferring the applicant from the post of Assistant Block Development Officer, Panchayat Samiti, Dindori to Assistant Block Development Officer, Panchayat Samiti, Rahuri, District Ahmednagar.

3. Learned counsel for the applicant submits that by order dated 08.11.2023, the applicant assigned with the duties as Sector Officer. Learned counsel for the applicant submits that there are 44 sectors created for the purpose of election and accordingly, the applicant is one of the Government servants posted as Sector Officer of Dindori Nilwandi Sector. Learned counsel for the applicant has pointed out that the name of the applicant in the said order at Sr. No. 26.

4. Learned counsel for the applicant submits that in terms of directives issued by Election Commission of India by way of communication dated 21.12.2023 particularly paragraph No. 6(iii), the officers appointed as Sector Officer/Zonal Magistrate involved in election duties are not covered under the transfer policy as declared by Election Commission of India.

5. Learned counsel for the applicant submits that though by communication dated 06.02.2024, the Deputy Collector/Deputy District Election Officer, Nashik has informed to the Deputy Secretary, Rural Development Department, Mumbai that the persons who are working as Assistant Block Development Officer shall be assigned with the duties as President of the Gramin Sveep Samiti, however, even though it is stated in the said communication that the said orders of appointment have been issued, however, no orders have been issued to that effect and in terms of the order dated 08.11.2023, the applicant has still working as Sector Officer.

6. Learned Presenting Officer submits that so far as the post of Sector Officer is concerned, the duties assigned to the Sector Officer which is a part of order dated 08.11.2023

(Annexure 'A-3') it appears that it is directly connected with the elections. Learned Presenting Officer has fairly accepted that though by communication dated 06.02.2024, the Deputy Collector/Deputy District Election Officer, Nashik has informed to the Government, however, no orders have been issued to that effect. Learned P.O. submits that considering that the applicant is directly connected with the elections and since the district Nashik is home district of the applicant, the directives issued by the Election Commission of India are squarely applicable to the case of the applicant. There is no substance in the Original Application and the same is liable to be dismissed.

7. On careful perusal annexure particularly annexure 'A-3' it appears that by order dated 08.11.2023 the applicant has been given the posting as a Sector Officer of Dindori Nilwandi Sector. It further appears that there are in all 44 sectors created to facilitate election process and even if the said order is perused in its entirety it further appears that the work of the Sector Officer is preliminary in nature which is mostly of checking the booth and make the necessary arrangement and keeping watch on all the arrangement to facilitate the election process. It further appears that though

the applicant is not directly connected with the elections, however, he is indirectly involved in the process of election.

8. So far as the directives issued by the Election Commission of India by way of communication dated 21.12.2023 are concerned, paragraph No. 6 speaks about the categories of officers not covered under transfer policy. It is stated in the said paragraph that during an election, a large number of employees are drafted for different types of election duty and the Commission has no intention of massive dislocation of state machinery by large scale transfers. Hence, the aforesaid transfer policy is normally not applicable to the categories of officers mentioned below. The category No. (iii) at page No. 39, which is relevant for present discussion, is reproduced herein below:-

“ 6 (iii) The officers appointed as Sector Officer/Zonal Magistrate involved in election duties are not covered under these instructions. However, the observers, CEO/DEOs and ROs should keep a close watch on their conduct to ensure that they are fair and non-partisan in the performance of their duties.”

9. Thus the said transfer policy as declared by the Election Commission of India is not applicable to the case of the applicant who is working as Sector Officer and only rider

is that the observes, CEO/DEOs and ROs should keep a close watch on their conduct to ensure that they are fair and non-partisan in the performance of their duties. I think this rider would suffice the purpose and there is no need to transfer the applicant since the transfer policy is not applicable to the post held by the applicant as Sector Officer. Hence, the following order:-

ORDER

- (A) The Original Application is hereby allowed.
- (B) The impugned order dated 16.02.2024 issued by respondent No.1 transferring the applicant from the post of Assistant Block Development Officer Panchayat Samiti Dindori, Dist. Nashik to the post of Assistant Block Development Officer, Panchayat Samiti Rahuri, Dist. Ahmednagar is hereby quashed and set aside.
- (C) In the circumstances, there shall be no order as to costs.
- (D) The Original Application is accordingly disposed of.

MEMBER (J)