

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 366 OF 2024

(Subject:- Transfer)

DISTRICT:-NANDURBAR

Ajay S/o Tanaji Vasave,)
Age 57 years, Occu: Service as)
Police Inspector, Nasik Rural,)
District Nasik, Mobile No. 9168550552,)
R/o Padavi Housing Society, Plot No. 21,)
Parishrm, Navapur Tq. Navapur,)
Dist. Nandurbar.) **APPLICANT**

V E R S U S

- 1. The D.G.P., Maharashtra,**)
Office at Shahid Bhagatsing Marg,)
Colaba, Mumbai-01.)
- 2. The Special Inspector General of Police**)
Nashik Region, Nashik 422001.)
- 3. The Superintendent of Police,**)
Nandur Dist. Nandurbar.)
- 4. The Election Commissioner of India,**)
Nirvachan Sadan, Ashoka Road,)
New Delhi-110001.)
- 5. The Chief Election Officer,**)
State of Maharashtra,)
General Administration Department,)
Office at Madam Kama Marg,)
Hutatma Rajguru Chowk,)
Mumbai 400001.) **RESPONDENTS**

APPEARANCE : Shri P.M. Nagargoje, 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 : 02.05.2024.

ORAL - ORDER

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

2. This pertains to the transfer of the applicant in view of directives issued by the Election Commission of India by way of communication dated 21.12.2023 read with further clarification about certain instructions by communication dated 22.02.2024.

3. Learned counsel for the applicant submits that the applicant is working as a Police Inspector. By order dated 16.06.2023, the applicant came to be transferred from Palghar to Nandurbar. Admittedly, Nandurbar is the home district of the applicant. It is not disputed that initially the applicant was holding the charge of Up-Nagar Police Station,

Nandurbar vide order dated 15.07.2023 but i.e. for certain period till 13.01.2024 only. By order dated 13.01.2024 passed by the Superintendent of Police, Nandurbar, the applicant has been given the posting and transferred from Up-Nagar Police Station to District Special Branch, Nandurbar on administrative grounds. Learned counsel for the applicant submits that since then till passing of the impugned order of transfer, the applicant was holding the post attached to District Special Branch, S.P. Office, Nandurbar

4. Learned counsel for the applicant submits that the post held by the applicant at the time of passing of the impugned order of transfer is non-executive post and in terms of the directives issued by the Election Commission of India particularly in paragraph No.5.3, the special branch is not covered under the directives/transfer policy as declared by the Election Commission of India.

5. Learned counsel for the applicant submits that though the Nandurbar is the home district of the applicant, at the time of passing of the impugned order of transfer by which the applicant came to be transferred from Nandurbar

to Nashik Rural in terms of directive issued by the Election Commission of India, the applicant was not directly connected with the elections and merely on the basis that the Nandurbar is the home district even though the said instructions as issued by the Election Commission of India are not applicable to the case of the applicant, the applicant came to be transferred midterm and mid-tenure. Learned counsel for the applicant submits that the Original Application deserves to be allowed.

6. Learned Presenting Officer submits that the applicant was in-charge of the Up-Nagar Police Station till 13.01.2024 in terms of the order passed by the Superintendent of Police, Nandurbar dated 15.07.2023. Learned P.O. submits that in view of same, the applicant was directly connected with the elections and since the Nandurbar district is the home district of the applicant, he is required to be transferred.

7. Learned Presenting Officer submits that in terms of the explanatory instructions given by the Election Commission of India by communication dated 22.02.2024, the police officer working in the home district is required to be

transferred, if he is holding the executive post after instructions issued by Election Commission of India by way of communication dated 21.12.2023. Learned P.O. submits that there is no substance in the Original Application and the same is liable to be dismissed.

8. On careful perusal of the annexures it appears that by order dated 13.01.2024, the applicant has been given the posting at District Special Branch, Nandurbar on administrative grounds and before that the applicant was working as In-charge of Up-Nagar Police Station. In view of same, even if as on the date of instructions issued by the Election Commission of India dated 21.12.2023, the applicant was attached and holding the executive post, under the orders of Superintendent of Police, Nandurbar dated 13.01.2024, the applicant came to be posted at District Special Branch, Nandurbar on administrative grounds.

9. It is thus clear that at the time of passing of the impugned order dated 23.02.2024, the applicant was not holding the executive post. Further, in terms of paragraph No. 5.3 of the instructions issued by the Election Commission of India dated 21.12.2023, the police officer who are posted in

functional departments like computerization, special branch, training, etc. are not covered under the instructions. Learned counsel for the applicant submits that being posted to the Special Branch, the applicant's job is to prepare the A.C.Rs. of the officers working in the department and further to deal with the administrative matters which are not directly connected with the elections. As pointed out by learned counsel for the applicant, the applicant going to be retired within the period of one year. In view of same and since the transfer policy as declared by the Election Commission of India is not applicable to the case of the applicant, the transfer of the applicant from Nandurbar to Nashik Rural on the on the basis of directives issued by Election Commission of India is unwarranted and uncalled for. Hence, the following order.

ORDER

- (A) The Original Application is hereby allowed.
- (B) The impugned transfer order dated 23.02.2024 of the applicant from District Special Branch on the establishment of respondent No.2 i.e. Superintendent of Police, Nandurbar to Nasik

Rural on the basis of proposal dated 23.02.2024 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)

Place:-Aurangabad

Date : 02.05.2024

SAS O.A. 366/2024(S.B.) Transfer