

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 383 OF 2024

(Subject:- Transfer)

**DISTRICT:-CH.
SAMBHAJINAGAR**

Sheshrao S/o Jairam Chavan,)	
Age 54 years, Occ. Service as Police Sub-)	
Inspector, R/o. Chatrapati Nagar,)	
Beed Bye Pass Road, Satara Parisar,)	
Chatrapati Sambhajanagar.)	
Mob. No. 9689749872.)	APPLICANT

V E R S U S

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|-----------|--|---|--------------------|
| 1. | The State of Maharashtra |) | |
| | Through its Principal Secretary, |) | |
| | Home Department, |) | |
| | Mantralaya, Mumbai – 32. |) | |
| 2. | The Director General of Police, |) | |
| | Maharashtra State, Mumbai, |) | |
| | Shahid Bhagatsing Marg, |) | |
| | Colaba, Mumbai-001. |) | |
| 3. | The Commissioner of Police, |) | |
| | Chatrapati Sambhajanagar, |) | |
| | Dist. Chatrapati Sambhajanagar-431 001 |) | RESPONDENTS |

APPEARANCE	:	Shri S.B. Solanke, 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)
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DATE	:	30.04.2024.
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ORAL - ORDER

Heard Shri S.B. Solanke, 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 is about the transfer of the applicant in terms of the directives issued by the Election Commission of India.

3. Learned counsel for the applicant submits that the applicant was working as Police Sub-Inspector attached to Police Station, Satara and undisputedly, Chh. Sambhajnagar is the home district of the applicant.

4. Learned counsel for the applicant submits that the applicant was promoted as Police Sub-Inspector in the month of May, 2023 and posted at Police Station, Satara on 18.08.2023. Learned counsel for the applicant submits that by impugned order of transfer dated 26.02.2024, the applicant came to be transferred midterm and mid-tenure under the pretext of the directives issued by the Election Commission of India.

5. Learned counsel for the applicant submits that the Division Bench of Hon'ble High Court of Bombay in Writ Petition No. 3717 of 2024 has considered both the grounds raised in the said Writ Petition i.e. the violation of directives issued by the Election Commission of India so also the midterm transfer of the petitioner therein. Learned counsel for the applicant submits that the provisions of Section 22(N) of the Maharashtra Police Act have not been followed before passing the impugned order of transfer. Learned counsel for the applicant submits that the Original Application deserves to be allowed.

6. Learned Presenting Officer submits that at the time of the impugned order of transfer, the applicant was holding the executive post being posted to Police Station, Satara as Police Sub-Inspector. In view of same, the applicant being a P.S.I attached to Police Station, Satara is directly connected to the elections and he is officer responsible for security arrangement or deployment of police forces in the district at election time. Chhatrapati Sambhajnagar city is the home district of the applicant and as such, in terms of the directives issued by the election

commission of India by way of communication dated 21.12.2023 particularly paragraph No. 5.3, the applicant came to be transferred from Chhatrapati Sambhajnagar to Nashik City.

7. Learned Presenting Officer submits that in the aforesaid Writ Petition relied upon by the learned counsel for the applicant, the Division Bench of Hon'ble High Court of Bombay has not considered the directives issued by the Election Commission of India for the reason that the respondent (original applicant) therein was to retire within six months and as such, the directives issued by the Election Commission of India were not applicable to him. So far as the provisions of Section 22(N) of Maharashtra Police Act are concerned, those are considered because the transfer in that case has been made when the petitioner was due for retirement within six months. Learned P.O. submits that, however, in paragraph No. 33 the Division Bench of Hon'ble High Court of Bombay has mainly considered clause 6 (vi) of the circular dated 21.12.2023 issued by the Election Commission of India. Learned P.O. submits that there is no substance in the Original Application and the same is liable to be dismissed.

8. In the instant case admittedly the applicant who is working as Police Sub-Inspector attached to Police Station, Satara at the time of passing of the impugned order is directly connected with the elections and in terms of paragraph No. 5.3 of the directives issued by the Election Commission of India by way of communication dated 21.12.2023, he is the officer responsible for security arrangement or deployment of police force in the district at election time.

9. In view of same, the case of the applicant is fully covered by the transfer policy as declared by the Election Commission of India. So far as the view taken in the aforesaid Writ Petition by the Division Bench of Hon'ble High Court of Bombay is concerned, the facts of the said case are different and cannot be made applicable to the facts and circumstances of the present case.

10. In view of above, I don't find any substance in the Original Application and the same is liable to be dismissed. Hence, the following order:-

ORDER

(A) The Original Application is hereby dismissed.

- (B) In the circumstances, there shall be no order as to costs.
- (C) The Original Application is accordingly disposed of.

MEMBER (J)

Place:-Aurangabad

Date : 30.04.2024

SAS O.A. 383/2024(S.B.) Transfer