

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 688/2024 (S.B.)**

1. Ganesh Govindrao Raut,
Aged about 49 years,
Occ. Service (Police Sub Inspector),
R/o Hari Shanti Colony,
Near Vitthal Mandir, Forest Colony,
Akoli Road, Amravati,
Tq. & Dist. Amravati.
2. Sagar Dadarao Thakare,
Aged about 37 years,
Occ. Service (Police Sub Inspector),
R/o Priyanka Colony,
Near Hanuman Mandir,
Kathora Road, Amravati,
Tq. & Dist. Amravati.

Applicants.**Versus**

- 1) The State of Maharashtra,
Through it's Additional Chief Secretary,
Home Department,
Mantralaya, Mumbai- 400 032.
- 2) The Director General of Police,
(M.S.), Near Rigal Cinema,
Mumbai.
- 3) The Commissioner of Police,
Amravati City, Amravati.

Respondents

Shri N.B.Raut, Id. Advocate for the applicants.**Shri A.M.Khadatkar, Id. P.O. for the respondents.**

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 12th December, 2024.

Judgment is pronounced on 18th December, 2024.

Heard Shri N.B.Raut, ld. counsel for the applicants and Shri A.M.Khadatkar, ld. P.O. for the Respondents.

2. Relevant chronology may be stated thus. On 21.12.2023 Election Commission of India issued directives (A-2) regarding transfer/posting of officers in view of ensuing General Elections to Lok Sabha. Pursuant to these directives respondent no. 2 issued a Circular on 03.01.2024 (A-R-2) to effect necessary transfers by 12.01.2024. As per aforesaid directives dated 21.12.2023 and Circular dated 03.01.2024, by order dated 16.01.2024 (A-3) respondent no. 3 transferred applicant no. 1 from Police Station, Gadge Nagar to Crime Branch, and applicant no. 2 from Police Station, Rajapeth to Traffic Branch by exercising powers under Section 22 N (1) (c) of Maharashtra Police Act, 1951. By the impugned order dated 26.02.2024 respondent no. 2 transferred the applicants both of whom are holding the post of Police Sub Inspector, from Amravati City to Nagpur City.

3. The applicants have impugned order of their transfer on the ground that though it was purportedly passed as per directives of Election Commission of India, it breached para 5.3 of this very directives. Relevant portion of para 5.3 reads as under:-

5.5 Police Officers:- *These instructions shall be applicable to the police department officers such as Range ADGs/IGs, DIGs, Commandants of State Armed Police, SSPs, SPs, Addl. SPs, Sub-Divisional Head of Police, SHOs, Inspectors, Sub-Inspector, Rls / Sergeant Majors or equivalent ranks, who are responsible for security arrangement or deployment of police forces in the district at election time. The police officials who are posted in functional departments like computerization, special branch, training, etc. are not covered under these instructions.*

Hence, this Original Application.

4. Stand of respondent no. 3 is as follows:-

It is submitted that the Respondent No. 2 had issued common transfer order dated 26.02.2024 (Annexure-4) of present applicants and transferred them from Amravati City to Nagpur City, the reason behind is that, the present applicants are posted in their Home District. The answering respondent followed the order of respondent no. 2 and had issued relieving order of present applicants on 28.02.2024 (Annexure-5). Therefore these transfers have been made with regard to the guidelines issued by the Election Commission of India dated 21.12.2023. Therefore, the order passed by the respondents is proper and legal, and according to the law.

5. I have considered rival contentions and record of the case. Last two lines of para 5.3 of directives of Election Commission of India dated 21.12.2023 make it clear that the Police Officials posted in

functional departments like Computerization, Special Branch, Training, etc. were not covered under it. It may be reiterated that as per order dated 16.01.2024 (A-3) applicant no. 1 was working in Crime Branch and applicant no. 2 was working in Traffic Branch. Thus, both of them could not have been subjected to transfer on the basis of directives dated 21.12.2023. This being the position, the impugned order of transfer of both the applicants cannot be sustained. The impugned order dated 26.02.2024 (A-4) is quashed and set aside to the extent of the applicants. The respondents are directed to pass consequential order of posting of the applicants within fifteen days from today. The O.A. is allowed in these terms with no order as to costs.

Member (J)

Dated :- 18/12/2024

aps

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 18/12/2024
and pronounced on

Uploaded on : 19/12/2024