

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO.171 OF 2019

Shri Deepak E. Shinde.)...Applicant

Versus

The State of Maharashtra.)...Respondent

Mr. M.D. Lonkar, Advocate for Applicant.

Mrs. K.S. Gaikwad, Presenting Officer for Respondent.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 26.02.2019

ORDER

1. Heard Shri M.D. Lonkar, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondent.
2. Initially, the Applicant has challenged his transfer order dated 20.02.2019 whereby he was transferred from the post of Deputy Collector (Revenue), Solapur to the post of Deputy Collector (Land Acquisition No.3), Solapur. However, subsequently that the order has been modified and by fresh order dated 25.02.2019, the Applicant has been transferred from the post of Deputy Collector (Land Acquisition No.3), Solapur to Deputy Collector (Land Acquisition No.1), Solapur.
3. The learned Advocate for the Applicant sought stay to the order dated 25.02.2019 also by contending that, it being mid-term and mid-tenure transfer, there is no compliance of Section 4(4)(ii) and 4(5) of Maharashtra Government

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Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as 'Transfer Act 2005').

4. Whereas, the learned P.O. urged that the transfer order dated 20.02.2019 has been approved by the CSB as well as by Hon'ble Chief Minister being highest competent authority, and therefore, the challenge to the order dated 20.02.2019 is not sustainable.

5. As regard modified order dated 25.02.2019, the learned P.O. submitted that, after issuance of first order dated 20.02.2019 for administrative convenience, in view of ensuing Loksabha elections, the Applicant has been transferred as Deputy Collector (Land Acquisition No.3), Solapur. According to her, the Applicant is found suitable for carrying out the election duties, and therefore, the order dated 25.02.2019 has been issued.

6. In so far as the first order dated 20.02.2019 is concerned, admittedly, there was approval of CSB to transfer the Applicant as Deputy Collector (Land Acquisition No.3), Solapur. However, later the Hon'ble Minister of the concerned Department and Hon'ble Chief Minister made changes and the Applicant is transferred and post as Deputy Collector (Land Acquisition No.1), Solapur. Thus, there was approval for the transfer of Applicant by CSB. However, later only posting has been changed from Deputy Collector (Land Acquisition No.1) Solapur to Deputy Collector (Land Acquisition No.3). As per the note, the said change was necessitated for administrative exigencies in view of ensuing Loksabha elections as some posts were required to be filled in.

7. Thus, in fact, there was approval of CSB for the transfer of Applicant though it was for his transfer as Deputy Collector (Land Acquisition No.3), Solapur. Therefore, at this stage, I am not inclined to grant interim relief, as *prima-facie*, there is substantive compliance of Section 4(4)(ii) and 4(5) of 'Transfer Act 2005'.

8. Issue notice returnable on 12th March, 2019.
9. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
10. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
11. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
12. The service may be done by Hand Delivery / Speed Post / Courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.
13. In case, notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.
14. S.O. to 12th March, 2019.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai
Date : 26.02.2019
Dictation taken by :
S.K. Wamanse.

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No.

of 20

IN



Original Application No.

of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 26.02.2019.</p> <p>O.A.No.171 of 2019</p> <p>D. E. ShindeApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri M. D. Lonkar, learned Advocate for the Applicant and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.</p> <p>2. In the present O.A., the challenge is to the transfer order dated 20.02.2019 whereby the Applicant has been transferred from the post of Deputy Collector (Revenue), Solapur to the post of Deputy Collector (Land Acquisition No.3), Solapur.</p> <p>3. However, the learned P.O. has pointed out that the impugned order dated 20.02.2019 has been modified by another order dated 25.02.2019 whereby the Applicant has been transferred from the post of Deputy Collector (Land Acquisition No.3), Solapur to Deputy Collector (Land Acquisition No.1), Solapur.</p> <p>4. In view of subsequent modification in the transfer orders, learned Advocate for the Applicant seeks leave to amend the O.A. and in fact, has tendered the proposed amendment being aware of modified order dated 25.02.2019.</p> <p>5. The amendment be carried out immediately so as to hear the matter for grant of interim relief.</p> <p>6. The matter be kept at 3.00 PM.</p> <p>Sd/- (A.P. Kurhekar) Member(J)</p>

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 26.02.2019.</p> <p>R. A. No.02 of 2018 in O. A. No.1028 of 1995</p> <p>T. S. ShindeApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ..Respondents.</p> <p>1. None for the Applicant. Heard Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.</p> <p>2. The Applicant has filed the R.A. in person but absent.</p> <p>This matter was earlier on the board of Registrar for removal of objections. However, the objections were not removed in spite of enough time. Therefore, the matter is listed before this Tribunal.</p> <p>3. In the present R.A., the Applicant is seeking review of the order dated 07.08.1996 passed in O.A. No.1028/1995. Prima-facie, it is hopelessly barred by limitation. No application is filed for condonation of delay.</p> <p>4. Hence, the R.A. is dismissed in default.</p> <p style="text-align: right;">  Sd/-  (A.P. Kurhekar) Member(J) </p> <p style="text-align: right;">→ P.T.O.</p>

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

L.O.

1. Mr. M.T. Sawant, learned Advocate appeared filed Vakalatnama on behalf of Applicant. He has requested for restoration of application. He has stated that the Applicant was present in the Tribunal since morning, but could not remain present on call, and therefore, the matter is dismissed for default. He, therefore, prayed for restoration of the matter.

2. He further submitted that he wants to withdraw R.A.2/2018 with liberty to file proper R.A. along with the application for condonation of delay and with this liberty, R.A.2/2018 be disposed of.

3. Allowed to withdraw R.A.No.2/2018 with liberty to file fresh R.A. along with application for condonation of delay, as may be permissible in law.

Sd/-

(A.P. Kurhekar)
Member-J

(skw)

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

IN

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

Date : 26.02.2019.

O. A. No.167 of 2019

P. V. SatereApplicant
Versus
The State of Maharashtra & Ors. ...Respondents.

1. Heard Shri M. D. Lonkar, learned Advocate for the Applicant and A. J. Chougule, learned Presenting Officer for the Respondents.

2. The Applicant has challenged the impugned transfer order dated 20.02.2019 whereby he has been transferred from Traffic Branch to Ambarnath Police Station within the Commissionerate of Thane.

3. Learned Advocate for the Applicant sought interim stay to the impugned order contending that the transfer orders are not covered by the guidelines issued by the Election Commission of India as the Applicant is not the resident of Thane district nor he has completed three years in the district. Therefore, according to him the impugned transfer does not come within the guidelines issued by the Election Commissioner of India.

4. Whereas, the learned P.O. has tendered the file containing Minutes of the PEB as well as the guidelines issued by the Election Commission of India and various circulars issued by the DGP in this behalf. The name of the Applicant is approved by the PEB for his transfer from Traffic Branch to Ambarnath Police Station. There is a specific mention that these transfers are made on administrative exigencies in view of the guidelines issued by the Election Commission of India invoking section 22(N)(2) of the Maharashtra Police Act.

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders
-2-

5. Though, the Applicant is not the resident of district Thane nor he has completed three years tenure in the post held by him, the impugned transfer order has been passed on administrative exigency in view of ensuing Lok Sabha Election as well as the guidelines issued by the Election Commission of India and the circulars issued by the DGP.

6. As such, prima-facie the impugned transfers are made on administrative exigency, therefore, at this stage, I am not inclined to grant interim relief.

7. However, the issue of grant of interim relief is kept open to be considered on filing of reply by the Respondents.

8. Issue notice before admission returnable on 12.03.2019.

9. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

10. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

11. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

12. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

13. In case notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

14. S.O. to 12.03.2019.

Sd/-

(A.P. Kurhekar)
Member(I)

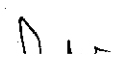
**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

IN

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders Date : 26.02.2019.
	<p>M.A. No.436 of 2017 with R.A. No.20 of 2017 in O.A. 1019 of 2015 with M.A. No.616 of 2018 in O.A.No.1019 of 2015</p> <p>V. D. Jadhav J. V. Patil & Ors.Applicants Versus The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Ms Mansha Khemka, learned Advocate for the Applicants, Smt. Kranti Gaikwad, learned Presenting Officer for the State. None for the Applicants in M.A.No.616/2018.</p> <p>2. M.A.No.436/2017 in R.A.No.20/2017 as well M.A. No.616/2018 are arising from O.A.No.1019/2018 decided by this Tribunal on 22.08.2017.</p> <p>3. M.A.No.436/2017 is for condonation of delay in filing R.A.20/2017 whereas M.A.No.616/2018 is for execution of the order passed by the Tribunal in O.A. No.1019/2015.</p> <p>4. However, learned Advocate Ms Khemka made a statement that the W.P. filed by the State Government against the judgment passed in O.A.No.1019/2015 has been allowed by the Hon'ble High Court on 22.02.2019 and the judgment passed by this Tribunal has been set aside and the matter is remanded back to the Tribunal for impleading parties and to decide afresh. As such, all these proceedings i.e. M.A.No.436/2017 in R.A.20/2017 and M.A.No.616/2018 have become infructuous.</p> <p>4. In view of above, M.A. No.436/2017 in R.A.20/2017 in O.A.1019/2015 and M.A.No.616/2018 in O.A.1019/2015 are disposed of as no cause of action survives.</p> <p>5. No order as to costs.  Sd/-</p> <p align="right">(A.P. Kurhekar) Member(J)</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders Date : 26.02.2019.
	<p>M.A. No.51/2019 in O.A.No.112/2019 with M.A.No.60/2019 in O.A.No.125/2019 with M.A.No.61/2019 in O.A.No.126/2019 with M.A.No.79/2019 in O.A.No.151/2019 with M.A.No.80/2019 in O.A.No.152/2019 with M.A.No.81/2019 in O.A.No.153/2019</p> <p>S. B. Chumbalkar & Ors.Applicants</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <ol style="list-style-type: none"> 1. Heard Shri V. V. Joshi, learned Advocate for the Applicants and Ms N.G. Gohad, learned Presenting Officer for the Respondents. 2. Issue notice before admission returnable on 26.03.2019. 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued. 4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of M.A.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing. 5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open. 6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice. 7. In case notice is not collected within seven days or service report on affidavit is not filed 3 days before returnable date, Misc. Application shall stand dismissed without reference to Tribunal and papers be consigned to record. 8. S.O. to 26.03.2019. <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(J)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

IN

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 26.02.2019.</p> <p>O.A.No.906 of 2018</p> <p>A. A. BorudeApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. Heard Shri Y. K. Choudhari, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. Today, the learned P.O. for the Respondents has filed reply on behalf of the Respondent No.2 and the same is adopted on behalf of the Respondent Nos.1 and 3 also. It is taken on record.</p> <p>3. The matter is adjourned for hearing at the stage of admission.</p> <p>4. S.O. to 19.03.2019.</p> <p style="text-align: right;">Sd/-</p> <p style="text-align: right;">(A.P. Kurhekar) Member(J)</p> <p>vsm</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 26.02.2019.</p> <p>M.A. No.78 of 2019 in O. A. No.760 of 2018</p> <p>i. M. MogalApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors.Respondents.</p> <ol style="list-style-type: none"> 1. Heard Shri Anil Taiswar holding for Shri R. G. Panchal, learned Advocate for the Applicant and Ms N. G. Gohad, learned Presenting Officer for the Respondents. 2. Issue notice before admission returnable on 26.03.2018. 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued. 4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of M.A.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing. 5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open. 6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice. 7. In case notice is not collected within seven days or service report on affidavit is not filed 3 days before returnable date, Misc. Application shall stand dismissed without reference to Tribunal and papers be consigned to record. 8. S.O. to 26.03.2019. <p style="text-align: right;">Sd/-</p> <p style="text-align: right;">(A.P. Kurhekar) Member(J)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

I N

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or Directions and Registrar's orders	Tribunal's orders Date : 26.02.2019.
	<p style="text-align: center;">O.A.No.22 of 2019</p> <p>N. R. SawardekarApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri M. D. Lonkar, learned Advocate for the Applicant, Smt. Archana B.K., learned Presenting Officer holding for Ms S.P. Manchekar, learned Chief Presenting Officer for the Respondent No.1 and Shri A. V. Bandiwadekar, learned Advocate for the Respondent No.2.</p> <p>2. Today, the learned Advocate for the Respondent No.2 submitted that he is filing Affidavit-in-Reply during the course of the day. The statement is accepted and reply be taken on record.</p> <p>3. On the request of learned Advocate for the Applicant, one week's time is granted for filing Rejoinder.</p> <p>4. S.O. to 06.03.2019.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member(I)</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 26.02.2019.</p> <p style="text-align: center;">O. A. No.172 of 2019</p> <p>D.M. Dore & Ors.Applicants</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <ol style="list-style-type: none"> 1. Heard Shri A. V. Bandiwadekar, learned Advocate for the Applicants and Shri A. J. Chougule, learned Presenting Officer for the Respondents. 2. Issue notice before admission returnable on 26.03.2018. 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued. 4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing. 5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open. 6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice. 7. In case notice is not collected within seven days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record. 8. S.O. to 26.03.2019. <p style="text-align: right;">Sd/-</p> <p style="text-align: right;">(A.P. Kurhekar) Member(J)</p> <p>vsm</p>

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

O.A.981/18

Shri S.S. Gargote ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

1. Heard Shri A.R. Joshi, learned Advocate for the Applicant and Ms. N.G. Gohad, learned P.O. for Respondents.
2. Learned Advocate for the Applicant filed Affidavit-in-rejoinder. The same is taken on record.
3. In the present matter, the issue pertains to interest on delayed payment of retiral benefits.
4. On 21st January, 2019, the Tribunal observed that it would be appropriate for the Respondents to consider the representation first and to decide the entitlement of the Applicant for the interest. On that ground, two weeks' time was granted to take decision.
5. Today, learned P.O. has submitted that the decision on the presentation is under process and it will be finalized within two weeks.
6. In view of above, the Respondent No.1 is directed to decide the representation and to take decision within two weeks from today.
7. S.O. to 13th March, 2019. Hamdast granted.

Sd/-

(A.P. Kurhekar)
Member-J
26.02.2019

(skw)

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

IN

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 26.02.2019.</p> <p align="center">O.A.No.770 of 2018</p> <p>S. Y. ShaikhApplicant</p> <p>Versus</p> <p>The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri A. V. Bandiwadekar, learned Advocate for the Applicant, Shri Akshay Purke holding for Shri S. D. Shinde, learned Advocate for the Respondent No.1 and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondent Nos.2 and 3.</p> <p>2. Respondent No.1 has already filed Affidavit-in-Reply which is at page Nos.34 to 37 of the Paper-Book. In so far as the reply of Respondent Nos.2 and 3 are concerned, learned P.O. submitted that in view of reply filed by the Respondent No.1, there is no necessity of filing reply of Respondent Nos.2 and 3.</p> <p>3. S.O. to 13.03.2019 for filing rejoinder and hearing.</p> <p align="right">Sd/- (A.P. Kurhekar) Member(J)</p> <p>vsm</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 26.02.2019.</p> <p>O.A.No.1080 of 2018 with O.A.No.1081/2018 with O.A.1082/2018 with O.A.1083/2018 with O.A.1098/2018 with O.A.1099/2018 with O.A.1100/2018 with O.A.1103/2018 with O.A.1104/2018 with O.A.1105/2018 with O.A.1106/2018 with O.A.1107 of 2018 with O.A.No.1101/2018</p> <p>A. 5. Kharbude & Ors.Applicants</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents</p> <p>1. None for the Applicants. Heard Smt. Archana B.K., Smt. Kranti Gaikwad and Ms N. G. Gohad, learned Presenting Officers for the Respondents.</p> <p>2. Today, learned P.O. for the Respondents has filed reply in O.A.Nos.1080, 1081, 1082, 1083, 1098, 1099, and 1104 and 1106/2018. It is taken on record.</p> <p>3. The matters are adjourned for hearing on 19.03.2019.</p> <p>4. S.O. to 19.03.2019.</p> <p>Sd/- (A.P. Kurhekar) Member(J)</p> <p>vsm</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT
..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or Directions and Registrar's orders	Tribunal's orders
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Date : 26.02.2019.

O.A.No.62 of 2018

P.R. ManeApplicant.
Versus
The State of Maharashtra & Ors.Respondents.

1. Heard Shri M.B. Kadam, the learned Advocate holding for Shri S.S. Dere, the learned Advocate for the Applicant and Ms. N.G. Gohad, the learned Presenting Officer for Respondents.

2. At the request of learned P.O. Ms. N.G. Gohad for the Respondents one week's time is granted.

3. S.O. to 05.03.2019.

Sd/-
(B.P. Patil)
Member(J)

prk

DATE: 26/2/2019

CORAM:

Hon'ble Justice Shri A. H. Joshi (Chairman)

Hon'ble Shri M. B. Patil (Member) * J

APPEARANCE:

Shri/Smt. M.B. Kadam U. Adv. holding
for Shri S.S. Dere
Advocate for the Applicant

Shri/Smt. N.G. Gohad
C.P.O / P.O. for the Respondent/s

Adj. To: 27/3/2019

DATE
26

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT
..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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Date : 26.02.2019.

O.A.No.1108 of 2018

P.R. PatankarApplicant.
Versus
The State of Maharashtra & Ors.Respondents.

1. Heard Shri M.B. Kadam, the learned Advocate holding for Shri S.S. Dere, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Presenting Officer for Respondents.

2. Learned P.O. Shri A.J. Chougule for the Respondents prays for one week's time for filing affidavit-in-reply on behalf of Respondents No.1 and 2.

3. Adjourned to 26.03.2019.

Sd/-

(B.P. Patil)
Member(I)

prk

DATE: 26/2/2019

CORAM:

Hon'ble Justice Shri A. H. Joshi (Chairman)

Hon'ble Shri B.P. Patil (Member) ✓

APPEARANCE:

Shri M.B. Kadam the Ld. Adv. holding for Shri S.S. Dere Applicant

Shri/Smt. A.J. Chougule C.P.O / P.O. for the Respondent/s

Adj. To 26/3/2019.

[Handwritten signature]

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT
..... Applicant/s

(Advocate.....)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p><u>DATE:</u> 26/2/2019</p> <p><u>CORAM:</u> Hon'ble Justice Shri A. H. Joshi (Chairman) Hon'ble Shri B. P. Patil (Member) ✓</p> <p><u>APPEARANCE:</u> Shri/Smt. M.B. Kadam H. Adv. holding for Shri S.S. Dere Advocate for the Applicant Shri/Smt. K.S. Gaikwad C.P.O / P.O. for the Respondent/s</p> <p>Adj. To..... 12/3/2019.....</p> <p style="text-align: right;">B.P.</p>	<p>Date : 26.02.2019.</p> <p>O.A.No.559 of 2018</p> <p>A.R. KhatavkarApplicant. Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri M.B. Kadam, the learned Advocate holding for Shri S.S. Dere, the learned Advocate for the Applicant and Smt. K.S. Gaikwad, the learned Presenting Officer for Respondents.</p> <p>2. At the request of learned Advocate Shri M.B. Kadam two week's time is granted as the Applicant wants to substitute the O.A.</p> <p>3. S.O. to 12.03.2019.</p> <p style="text-align: right;">Sd/- (B.P. Patil) Member(J)</p> <p>prk</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT
..... Applicant/s

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versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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Date : 26.02.2019.

M.A.No.407 of 2018 in O.A.No.725 of 2018

Dr. 8.B. Birajdar & Ors.Applicants.

Versus

The State of Maharashtra & Ors.Respondents.

1. Heard Smt. Archana B.K., the learned Presenting Officer for Respondents. None for the Applicants.

2. For filing affidavit-in-reply in M.A. three week's time is granted as most last chance.

3. S.O. to 19.03.2019.

Sd/-

(B.P. Patil)
Member(J)

DATE: 26/2/2019

CORAM:

Hon'ble Justice Shri A. H. Jeshi (Chairman)

Hon'ble Shri M. B. Patil (Member) A J

APPEARANCE:

Shri/Smt. None for the appl.

Advocate for the Applicant

Shri/Smt. Archana B.K.

C.P.O / P.O. for the Respondent/s

Adj. To: 19/3/2019

prk

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.179 OF 2019

Shri V.M. Gajre.)...Applicant

Versus

1. The State of Maharashtra & Anr.)...Respondents

Mr. M.D. Lonkar, Advocate for Applicant.

Mr. A.J. Chougule, Presenting Officer for Respondents.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 26.02.2019

ORDER

1. In the present matter, the Applicant has challenged his transfer by impugned order dated 25.02.2019 whereby he was transferred from the post of S.D.O, Palghar to General Manager, Land Acquisition, M.I.D.C, Andheri for the period of one year.

2. The learned Advocate for the Applicant has prayed for interim relief contending that the Applicant was not due for transfer, and therefore, it being mid-term and mid-tenure transfers and there has to be compliance of Section 4(4)(ii) and 4(5) of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as 'Transfer Act 2005').

3. Whereas Shri A.J. Chougule, learned P.O. sought to contend that the impugned order has been passed considering the administrative exigencies and instructions of Election Commission of India. He has also produced the file for the perusal of the Tribunal.
4. Admittedly, the Applicant is neither resident of Palghar District nor he had completed 3 or more than 3 years as S.D.O, Palghar, and therefore, there is no question of resorting to guidelines of Election Commission of India for his transfer.
5. Though the impugned order dated 25.02.2019 shows that it is in compliance of Section 4(4)(ii) and 4(5) of 'Transfer Act 2005', the perusal of file produced by learned P.O. reveals that there was no such proposal for the transfer of the Applicant as well as for Respondent No.2 by Civil Services Board (CSB). However, when the proposal of CSB pertaining to transfer of other Official was placed before the Hon'ble Minister, certain changes were made by Hon'ble Minister whereby the Applicant has been transferred from S.D.O, Palghar to General Manager, Land Acquisition, MIDC, Andheri. True, the note pertaining to the changes is signed by the concerned Hon'ble Minister as well as Hon'ble Chief Minister. At the top of note, it is simply stated that these changes are made on considering the difficulties of the employees and administrative need. Except these vague mention, no other details as to what was the administrative exigency for the transfer of Applicant is forthcoming.
6. Secondly, ^{Most} importantly, there is no proposal for the transfer of the Applicant by CSB and the transfer apparently effected by Hon'ble Minister and Hon'ble Chief Minister which is *prima-facie* not in consonance of Section 4(5) of 'Transfer Act 2005' and direction of Hon'ble Supreme Court in **(2013) 15 SCC 732 (T.S.R. Subramanian and Ors. Vs. Union of India & Ors.)**. There is nothing to

show that it has been done in consultation with Secretaries of the concerned Departments. As such, apparently, the transfers are effected only by Hon'ble Minister and Hon'ble Chief Minister, which cannot be said legal for want of approval of CSB and competent authority as contemplated in 'Transfer Act 2005'.

7. In view of above, I am satisfied that *prima-facie* the case is made out to stay the execution of impugned order.

8. For the aforesaid discussion, the interim relief is granted in terms of Prayer Clause 15(b) of O.A. till filing of reply.

9. Issue notice returnable on 12th March, 2019.

10. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

11. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

12. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.

13. The service may be done by Hand Delivery / Speed Post / Courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

14. In case, notice is not collected within three days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

15. S.O. to 12th March, 2019. Hamdast granted.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai

Date : .02.2019

Dictation taken by :

S.K. Wamanse.

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