

**ORIGINAL APPLICATION ST. NO. 512/2020**

**(Dr. Santosh S. Palve Vs. State of Maharashtra & Ors.)**

**CORAM : B.P. PATIL, VICE CHAIRMAN**

**DATE : 03.06.2020**

**ORAL ORDER :**

Heard Shri V.M. Maney, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant has been transferred as a District Animal Husbandry Officer, Zilla Parishad, Beed by the order dtd. 27.11.2017 and accordingly he joined on the said post on the same day. He has submitted that the applicant has not completed his normal tenure of posting on the said post. He has submitted that the wife of the applicant is serving as a Live Stock Development Officer and she has been posted at Panchayat Samiti Beed by the transfer order dtd. 28.5.2018 on account of couple convenience. He has submitted that the Government has issued G.R. dtd. 4.5.2020 and banned the transfers during the financial year 2020-21 due to COVID-19 pandemic. He has submitted that in spite of that the respondents have issued the impugned transfer order dtd. 29.5.2020 and transferred the applicant from the post of Dist. Animal Husbandry Officer, Z.P., Beed to the

post of Assistant Commissioner, Animal Husbandry, Selu, Dist. Parbhani. He has submitted that the impugned transfer order has been issued in contravention of the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short the Transfer Act, 2005) as well as G.R. dtd. 4.5.2020. He has submitted that the applicant has not been yet relieved and he is still serving on the said post at Beed. Therefore he prayed to direct the parties to maintain the Status quo as on today by way of interim relief.

3. Learned C.P.O., on instructions from the office of the C.E.O., Z.P., Beed, has submitted that there were several complaints against the applicant. He has submitted that in one of the complaint there are allegations of misappropriation made by the applicant in the case of purchase of needles. He has submitted that a Committee appointed to enquire into the complaint has made enquiry and found the applicant guilty and on the basis of the report of the said Committee the transfer of the applicant has been proposed. He has submitted that another complaint is

filed by the staff members of the concerned department against the applicant and the Department has conducted enquiry in that complaint also. He has further submitted that one more complaint has been filed by the lady staff members working under the applicant and that complaint has been enquired into by the Vishakha Committee. He has submitted that on the basis of the said complaints and allegation made therein the applicant has been transferred in view of the provisions of section 4(4) and 4(5) of the Transfer Act, 2005 with prior approval of the higher transferring authority. He has submitted that the applicant has been relieved and one Dr. V.M. Deshmukh, Assistant Commissioner, who has been posted on the post of the applicant, has attended the office of the C.E.O., Z.P., Beed today and he is going to take charge of the post of the applicant. He has submitted that the applicant is not present today in the office. Therefore he prayed to reject the prayer of the applicant for grant of interim relief.

4. Considering the submissions made by the learned C.P.O. and on perusal of the impugned transfer order it reveals that the applicant has been

transferred in view of the provisions of section 4(4) and 4(5) of the Transfer Act, 2005 on administrative grounds and the complaints of serious nature filed against the applicant. The impugned order has been issued with prior approval of the next / higher transferring authority and accordingly the Commissioner, Animal Husbandry, Pune directed the C.E.O., Z.P., Beed by the order dtd. 2.6.2020 to relieve the applicant immediately. As per the submissions made by the learned C.P.O. the applicant has been relieved by the C.E.O., Z.P., Beed in his absence today and Dr. V.M. Deshmukh is going to take charge of the post of the applicant.

5. In these circumstances, in my view, *prima-facie*, there is no illegality in the impugned order and therefore the applicant cannot be protected by interim relief as claimed. Hence the request of the applicant to grant interim relief is hereby rejected.

6. Issue notices to the respondents, returnable on 1.7.2020.

7. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

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

9. 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.

10. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

11. If notice is not collected within 7 days or proof of service is not produced before 3 days of the next date, case shall automatically stand dismissed without further reference to the Tribunal.

12. S.O. to 1.7.2020.

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13. Steno copy and Hamdast is allowed to both parties.

**VICE CHAIRMAN**

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