



तात्काळ/न्यायालयीन प्रकरण.

क्र.पोमसं/१४अ/६७/एमए/१४२/२०१७.

महाराष्ट्र राज्य पोलीस मुख्यालय,

शहीद भगतसिंग मार्ग, कुलाबा ,

मुंबई. दिनांक -१८/११/२०१७.

संदर्भ:- १) या कार्यालयाचे परिपत्रक समक्रमांक दि.०७ ऑक्टोबर, २०१६.

२) या कार्यालयाचे परिपत्रक समक्रमांक दि.०८/११/२०१७.

विषय:- महाराष्ट्र पोलीस अधिनियम, १९५१ मधील कलम २२न नुसार स्थापन करण्यात आलेल्या विविध पोलीस आस्थापना मंडळांना पोलीस निरीक्षक पदापर्यंत बदल्या करण्याच्या असलेल्या प्राधिका-यांच्याबाबतीतील मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, औरंगाबाद खंडपीठाने, मूळ अर्ज क्र.३९०/२०१७ व ३९१/२०१७ (पोलीस निरीक्षक श्री.विजय शंकरराव टिकोळे व पोलीस निरीक्षक श्री.संभाजी रामराव पाटील विरुद्ध महाराष्ट्र शासन व इतर) यामध्ये दि.२० सप्टेंबर, २०१७ रोजी दिलेले आदेश.

परिपत्रक

राज्यातील सर्व घटक पोलीस प्रमुखांचे लक्ष या कार्यालयाच्या संदर्भामधील नमुद परिपत्रकाकडे वेधण्यात येत आहे, त्याच्या छायांकित प्रती यासोबत पुन्हा सुलभ संदर्भाकरिता जोडलेल्या आहेत. या परिपत्रकामध्ये पोलीस कर्मचारी ते पोलीस निरीक्षक दर्जापर्यंतचे पोलीस कर्मचारी आणि अधिकारी यांचा सामान्य पदावधी पूर्ण होण्याआधी जर महाराष्ट्र पोलीस अधिनियम, १९५१ मधील कलम २२न (२) मधील निकषांच्या आधारावर बदली करावयाची असल्यास कोणती योग्य ती कार्यवाही करणे आवश्यक आहे, याचा ऊहापोह करण्यात आलेला आहे.

०२. राज्यातील सर्व घटक पोलीस प्रमुखांच्या त्यांच्याकडे असलेल्या पोलीस आस्थापना मंडळ (संक्षिप्त "पो.आ.मं.") यांना पोलीस कर्मचारी ते पोलीस निरीक्षक पर्यंत सामान्य पदावधी पूर्ण होण्याच्याआधी असलेल्या अधिकाराच्याबाबतीत नुकतेच मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, औरंगाबाद खंडपीठाने, विषयांकित नमूद प्रकरणांत विशेष पोलीस महानिरीक्षक, नाशिक परिक्षेत्र, नाशिक यांच्या कार्यालयातील पो.आ.मंडळाने नाशिक परिक्षेत्रांतर्गत पो.नि. यांच्या केलेल्या बदलीची कार्यवाही कायदेशिर व योग्य असल्याबद्दल महत्वाची निरीक्षणे केलेली आहे.

०३. उपरोक्त विषयात नमुद केल्याप्रमाणे मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, औरंगाबाद खंडपीठासमक्ष पोलीस निरीक्षक श्री.विजय शंकरराव टिकोळे यांची दहशतवाद विरोधी पथक, अहमदनगर येथून पोलीस अधीक्षक, धुळे येथे पोलीस आस्थापना मंडळ क्र.२ यांनी दि.०१/०६/२०१७ रोजी निर्गमित केलेले बदलीचे आदेश उपरोक्त मूळ अर्जामध्ये आढावित केले होते.

०४. याप्रकरणी मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, औरंगाबाद खंडपीठाने दि.२० सप्टेंबर, २०१७ रोजी न्यायनिर्णय दिला आहे, या आदेशातील मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण यांनी खालील नमुद महत्वाची निरीक्षणे/ न्यायनिवाडा/ Ratio दिलेला आहे, सोबत त्याची छायांकित प्रत जोडली आहे, त्याचे अवलोकन होऊन त्यानुसार कार्यवाही पो.आ.मं. यांनी करणे सुलभ होण्याच्या दृष्टीकोनातून सदरील बाबी निदर्शनास आणण्यात येत आहे.

20. On going through the documents, it reveals that, so far as the applicant Shri Vijay S. Tikole is concerned, there were several incidents of misconduct on his part. It was necessary and incumbent on the part of the applicant Shri Vijay Tikole to produce the case diary of the crimes as per rule 225 (2) of Police Manual Part – 3, but he has not produced the said case diary to the Office. Not only this, but the documents on record show that, the complainant in crime bearing C.R. no. I 137/2016 has filed writ petition before the Hon'ble High Court of Judicature Bombay, Bench at Aurangabad and made allegations against the applicant contending that the investigation has not been carried out properly by the applicant. Therefore, investigation of the said crime was handed over to the Sub-Divisional Police Officer, Ahmednagar. It is material to note that in the complaint filed against him, he was summoned by the Additional S.P. for enquiry, but he remained absent. The Enquiry Officer in his report stated that the behavior, attitude and working of the applicant is harmful to the society in large and the said will badly affect the discipline of the police department. Considering the said report, the res. no.4 has made recommendation to the res. no. 3 on 17.5.2017 for taking action and for transfer of the applicant from Ahmednagar. Meeting of the Police Establishment Board at Range level was held on 31.5.2017 and the board decided to transfer the applicant from Ahmednagar to Dhule on administrative ground to maintain law & order in the society and to protect the image of the Police Department in the society.

21. Likewise the conduct of the applicant Shri Sambhaji s/o Ramrao Patil shows that it was not befitting to a police officer. He quarreled with his colleague at public place when he was on duty. Therefore, the said matter had been published in the newspaper. An enquiry had been conducted, but the applicant has not appeared before the Enquiry Officer. When the S.D.P.O. visited the place of incident, he noted that the applicant was violent. Thereafter, the applicant had not reported to the duty and reported sick. Therefore, the S.P. made report to the Police Establishment Board at Range level for his transfer to Dhule District. The report/proposal of S.P. regarding transfer of the applicants has been placed before the Police Establishment Board Range level in the meeting dated 31.5.2017. The conduct and behavior of the applicants has been considered by the Members of the Board headed by the Special Inspector General of Police, Nasik Range. They considered the default reports of the applicants and found that the behavior of the applicants is not befitting to the Police Officer. Therefore, in the public interest and on account of administrative exigency, they have decided to transfer the applicants out of the present Dist. to another Dist. Accordingly, the applicant Shri Vijay Shankarrao Tikole is transferred to Dhule and the applicant Shri Sambhaji s/o Ramrao Patil has been transferred to Ahmednagar by the impugned order dated 31.5.2017.

22. The explanation to sec. 22 N (2) defines the "Competent Authority" for the purpose of sub sec (2) for making transfers of the Police personnel in exceptional circumstances, in public interest and

on account of administrative exigencies. In view of Clause (d) of Explanation to Sub Section (2) of Section 22 N the Police Establishment Board at level of Range is “Competent Authority” for transfer of Police personnel up to the rank of Police

Inspector within the respective Range. The relevant provision is reproduced here in below :-

**“22N. Normal tenure of Police Personnel,
and competent authority.**

(1) -----

(2) In addition to the grounds mentioned in sub section (1), in exceptional cases, in public interest and on account of administrative exigencies, the Competent Authority shall make mid-term transfer of any Police Personnel of the Police Force :

Explanation.- For the purpose of this sub-section, the expression “Competent Authority” shall mean :-

<i>Police Personnel</i>	<i>Competent Authority</i>
(a)-----	-----
(b)-----	-----
(c)-----	-----
(d)Police personnel up to the rank of Police Inspector for transfer within the respective Range, Commissionerate or Specialized Agency	Police Establishment Boards at the level of Range, Commissionerate or Specialized Agency, as the case may be ;
(e)-----	-----”

23. The said provision shows that the Police Establishment Board at Range level is empowered to make transfers of the Police Inspectors in exceptional cases in the public interest and on account of administrative exigencies. Therefore, from the said provision, it is clear that the Police Establishment Board at Range level is the “Competent Authority” to effect the transfer of the Police Officer up to the rank of Police Inspectors. Therefore, the provisions of sec. 22 J(2) and sec. 22F on which, the learned Advocate for the applicants has placed reliance, are not attracted in this case. Therefore, I do not find substance in the submission advanced by learned Advocate for the applicants that the impugned order has been issued by the Police Establishment Board at Range level is without any authority and power.

24. The Police Establishment Board at Range level has considered the nature of the complaints against the applicants, their behavior and considering the exceptional circumstances in order to maintain the discipline in the Police Force and to protect the image of the Police Department in the society effected the transfers of the applicants in the public interest and on account of administrative exigencies. I, therefore, do not find any malice on the part of the respondents in issuing the impugned order of transfer.

25. I have gone through the decisions relied by the learned Advocate for the applicants in case of **SOMESH TIWARI VS. UNION OF INDIA AND ORS.[AIR 2009 SC 1399]**. I have no dispute regarding the settled legal principles laid down by the Hon'ble Supreme Court. In the said decision, it has been held that ordinarily transfer order, which is an administrative order should not be interfered with unless there is mala-fideness on the part of the authority. In the instant cases, there is nothing on record to show that the respondents have issued the impugned order with mala-fide intention. Except the bald allegations of the applicants, there is nothing on record to show that the impugned order has been issued with mala-fide intention. Therefore, in my opinion, there is no just reason to interfere in the impugned transfer order.

26. I have gone through the various judgments of this Tribunal relied by the learned Advocate for the applicants. On going through the facts in the instant cases and facts in the above cited judgments of the Tribunal, in my opinion, the said judgments are not useful to the applicants as the facts involved in those cases are totally different. Therefore, the same are not useful to the applicants.

27. In view of above discussion, it is clear that the impugned order has been issued by the res. no. 3 on the basis of the decision taken by the Police Establishment Board at Range level. The Police Establishment Board at Range level decided to transfer the applicants in the public interest on account of administrative exigencies and considering the exceptional circumstances mentioned in the minutes of the meeting dtd. 31.5.2017. The said order is in accordance with the provisions of sec. 22 N(2) of the Maharashtra Police Act, 2015. The Police Establishment Board at Range level is "Competent Authority" to make mid tenure and midterm transfers of the applicants. The impugned order is legal and in accordance with the provisions of the law. There is no illegality in the impugned order issued by the res. no. 3. Therefore, no interference is called for in the impugned order. There is no merit in both the O.As. Hence, the same deserve to be dismissed.

28. In view of above discussion, both the O.As. stand dismissed with no order as to costs.

संलग्न:- वरिलप्रमाणे.

mu

(राजकुमार व्हटकर)

विशेष पोलीस महानिरीक्षक (आस्थापना),
पोलीस महासंचालक, म.रा., मुंबई यांचे करिता.

प्रति,

सर्व पोलीस आयुक्त,
अपर पोलीस महासंचालक, लोहमार्ग, महाराष्ट्र राज्य, मुंबई.
अपर पोलीस महासंचालक, रा.रा.पो.बल., मुंबई.
अपर पोलीस महासंचालक, प्रशिक्षण व खास पथके, म.रा.मुंबई.
अपर पोलीस महासंचालक, वाहतूक, म.रा., मुंबई.
अपर पोलीस महासंचालक, दहशतवाद विरोधी पथक, महाराष्ट्र राज्य, मुंबई.
अपर पोलीस महासंचालक व संचालक, बिनतारी संदेश, म.रा.पुणे.
अपर पोलीस महासंचालक, विशेष कृती, महाराष्ट्र राज्य, मुंबई.
संचालक, महाराष्ट्र पोलीस अकादमी, नाशिक.
संचालक, महाराष्ट्र गुप्तवार्ता प्रबोधिनी, पुणे.
विशेष पोलीस महानिरीक्षक (नविअ), नागपूर
विशेष पोलीस महानिरीक्षक, सुरक्षा, दादर मुंबई.
सर्व परिक्षेत्रीय विशेष पोलीस महानिरीक्षक.
विशेष पोलीस महानिरीक्षक, मोटार परिवहन विभाग, म.रा.पुणे.
विशेष पोलीस महानिरीक्षक, ना.ह.सं., मुंबई.
विशेष पोलीस महानिरीक्षक, राज्य राखीव पोलीस बल, पुणे/ नागपूर.
सर्व पोलीस अधीक्षक
सर्व समादेशक, रा.रा.पो.बल.गट १ ते १६
सर्व प्राचार्य, पोलीस प्रशिक्षण विद्यालय
प्राचार्य, युओटीसी, नागपूर.
उपसंचालक, डी.टी.एस.नाशिक
प्रत :- महासंचालक, ॲन्टी करप्शन ब्युरो, महाराष्ट्र राज्य, मुंबई (सस्नेह)
आयुक्त, राज्य गुप्तवार्ता विभाग, म.रा., मुंबई.
अपर पोलीस महासंचालक, गु.अ.वि., म.रा. पुणे.

प्रत सविनय सादर

अपर मुख्य सचिव, महाराष्ट्र शासन, गृहविभाग, मंत्रालय, मुंबई.

प्रत :- पोलीस महासंचालक, महाराष्ट्र राज्य, मुंबई यांचे कार्यालयातील सर्व कार्यासन अधिकारी.

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MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

COMMON ORDER IN O.A. NOS. 390 & 391 BOTH OF 2017

(1) **ORIGINAL APPLICATION NO. 390 OF 2017**

DIST. :JALGAON

Vijay Shankarrao Tikole,
Age.49years, Occu. : Service as
Police Inspector, Anti-Terrorist Cell,
S.P. Officer, Ahmednagar,
Tq. & Dist. Ahmednagar.

-- APPLICANT

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
Home Department, Mantralaya,
Mumbai - 32.
2. The Director General of Police,
Shahid Bhagatsingh Marg,
Kulba, Mumbai - 400 001.
3. The Special Inspector General of
Police, Nashik Range, Nashik.
4. The Superintendent of Police,
Ahmednagar.

-- RESPONDENTS

WITH

(1) **ORIGINAL APPLICATION NO. 391 OF 2017**

DIST. :DHULE

Sambhaji s/o Ramrao Patil,
Age. 50 years, Occu. : Presently working as
Police Inspector, Taruka Police Station,
Dhule, Dist. Dhule.

APPLICANT

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
Home Department, Mantralaya,
Mumbai - 32.
2. The Director General of Police,
Police Headquarter, Culaba,
Mumbai - 1.
3. The Special Inspector General of
Police, Nashik Range, Nashik.
4. The Superintendent of Police,
Dhule, Dist. Dhule.

--- RESPONDENTS

APPEARANCE : Shri V. B. Wagh, learned Advocate for the
applicants in both the matters.

: Shri M. P. Gude, learned Presenting Officer
for the respondents in O.A. no. 390/2017.

: Shri T. U. Yadav, learned Presenting Officer
for the respondents in O.A. no. 391/2017.

CORAM : Hon'ble Shri B.P. Patil, Member (J)

DATE : 20th September, 2017

ORDER

1. Facts and issues involved in both the Original Applications are similar and identical and the applicants have challenged the common order dated 31.5.2017 by which they have been transferred. Therefore, both these OAs are being decided by the common order.

2. The applicants have challenged the impugned order dated 31.5.2017 issued by the res. no. 3 by which they have been transferred from the present post by filing the present O.As.

3. The applicant in O.A. no. 390/2991 Shri Vijay Shankarrao Tikole was appointed as a F.S.I. on 21.3.2000 and was posted in the office of Commissionerate of Police, Zone - 2, Mumbai, after completion of training at Maharashtra Police Academy, Nashik. He was promoted to the post of A.S.I. by the order dated 31.5.2005. Thereafter he worked at various places in that cadre. Thereafter he was promoted to the post of Police Inspector and posted at Flying Squad, C.I.D., Pune on 9.6.2010. Thereafter he was transferred by the order dated 15.2.2014 to the office of Superintendent of Police, Ahmednagar from Flying Squad, C.I.D., Pune. He was relieved from Flying Squad, C.I.D., Pune. In view of the transfer order dated 15.2.2014, the applicant was relieved from Flying Squad, C.I.D., Pune on 18.2.2014. Thereafter he joined his duties in the office of S.P., Ahmednagar on 20.2.2014 and he was posted at Police Station, Supa by the order dated 20.2.2014 issued by the res. no. 4. Thereafter he was posted to Control Room, Ahmednagar from the Police Station, Supa. Thereafter by the order dated 15.6.2015 issued by the res. no. 4 the applicant was transferred to Sai Baba Security, Shirdi from

Control Room, Ahmednagar. While working there he was again transferred to Control Room, Ahmednagar from Sai Baba Security, Shirdi by the order dated 9.7.2015 issued by the res. no. 4. On 4.8.2015, he was transferred to the Economic Offence Wing, Ahmednagar attached to local Crime Branch from Police Control Room, Ahmednagar. Thereafter by the order dated 26.9.2016 issued by the res. no. 4 he was transferred to Anti Terrorist Cell, Ahmednagar attached to special branch from the Economic Offence Wing, Ahmednagar and since then he was working there.

4. There were no complaints against him and he had not completed normal tenure on the said post, but the res. no. 3 had issued the transfer order dated 31.5.2017. On the basis of the said order dated 31.5.2017 issued by the res. no. 3, the res. no. 4 relieved the applicant w.e.f. 1.6.2017 with a direction to join his new posting at Dhule. It is contention of the applicant that he has not completed his normal tenure of 2 years on the previous posting as well as the tenure of 4 years in the District. It is his contention that the said transfer is midterm and mid tenure transfer and it is in violation of the provisions of the Maharashtra Police Act 2015 (for short the Police Act, 2015). It is his contention that the impugned order has been issued by the res. no. 3 with mala-fide intention without any administrative

exigency. There are no exceptional circumstances to transfer him and therefore, it is illegal. Therefore, he has challenged the impugned transfer order dated 31.5.2017 issued by the res. no. 4.

5. It is the contention of the applicant Shri Sambhaji s/o Ramrao Patil O.A. no. 391/2017 that he was initially appointed as a P.S.I. vide order dated 24.6.1989. He was promoted to the post of A.S.I. by the order dated 1.5.2001 and he rendered services on that post at various places. He was promoted to the post of P.I. by order dated 17.5.2008 and he worked at several places as a P.I. On 2.6.2014, he was transferred to Dondaicha Police Station, Dist. Dhule from Shirpur Police Station, Dist. Dhule. He joined at Dondaicha on 16.7.2014. By the order dated 24.4.2015 he was transferred to the Office of Superintendent of Police, Jalgaon from Dondaicha Police Station, Dist. Dhule, but that order was modified by order dated 8.6.2015 transferring the applicant on the establishment of S.P., Ahmednagar. He challenged the said orders dated 24.4.2015 as well as the order dated 8.6.2015 before the Hon'ble Tribunal by filing O.A. no. 491/2015. This Tribunal had set aside the said transfer of the applicant from Dondaicha Police Station, Dist. Dhule to Superintendent of Police, Ahmednagar. In pursuance of the order of the Tribunal, the respondent authorities had cancelled the

orders of transfer and had issued the order dated 23.6.2016 cancelling his transfer from Dhule to Ahmednagar and posting him in the Office of the S.P., Dhule. In the general transfers of the year 2017 option of the applicant had been called as he was due for transfer. The applicant has medical problems as well as family problems. His parents are old aged and there is no other person to take care of them and, therefore, he made representation to the res. no. 1 and requested to retain him at Dhule for a period of one year. His representation has been considered by the respondents and he has been retained at Taluka Police Station, Dhule for one year vide order dated 20.4.2017. It is his contention that by the impugned order dtd. 31.5.2017 issued by the res. no. 3 he has been transferred to the office of S.P., Ahmednagar from Taluka Police Station, Dhule. By the order dated 11.6.2017 issued by the res. no. 4 the impugned transfer order dated 31.5.2017 issued by the res. no. 3 has been served upon the applicant and he has been relieved w.e.f. 1.6.2017. It is his contention that the impugned transfer order is in violation of the provisions of the Maharashtra Police Act, 2015 and, therefore, he challenged the same by filing the present O.A.

6. The respondents have filed their affidavit in reply and additional affidavit in reply and resisted the contentions of the

applicants. They have admitted the fact that the applicant Shri Vijay Shankarrao Tikole (O.A. no. 390/17) was transferred to Control Room, Ahmednagar vide order dated 4.8.2015. It is their contention that the Director General of Police, Mumbai had sent anonymous complaint received against the applicant to the respondent No. 4 for enquiry and accordingly respondent No. 4 directed the Additional S.P., Ahmednagar to conduct the enquiry. The Additional S.P., Ahmednagar issued notice to the applicant on 20.9.2016, 29.12.2016 and 13.2.2017 for remaining present for enquiry. In spite of oral and written intimation to the applicant, he never appeared before the Enquiry Officer. The Enquiry Officer conducted the enquiry and submitted his report on 16.5.2017 to the respondent No. 4. It is their contention that the applicant Shri Vijay Shankarrao Tikole (O.A. no. 390/17) was working in Economic Offence Wing. Investigation in three crimes bearing crime No. I 137/2016, I 63/2016 and I 109/2015 were given to him. It was necessary on the part of the applicant to produce the case diary of the said crimes as per rule 225 (2) of Police Manual Part - 3, but the applicant has not produced the said case diary in the Office.

7. The complainant in C.R. No. I 137/2016 has filed a writ petition before the Hon'ble Bombay High Court, Aurangabad

applicants. They have admitted the fact that the applicant Shri Vijay Shankarrao Tikole (O.A. no. 390/17) was transferred to Control Room, Ahmednagar vide order dated 4.8.2015. It is their contention that the Director General of Police, Mumbai had sent an anonymous complaint received against the applicant to the respondent No. 4 for enquiry and accordingly respondent No. 4 directed the Additional S.P., Ahmednagar to conduct the enquiry. The Additional S.P., Ahmednagar issued notice to the applicant on 20.9.2016, 29.12.2016 and 13.2.2017 for remaining present for enquiry. In spite of oral and written intimation to the applicant, he never appeared before the Enquiry Officer. The Enquiry Officer conducted the enquiry and submitted his report on 16.5.2017 to the respondent No. 4. It is their contention that the applicant Shri Vijay Shankarrao Tikole (O.A. no. 390/17) was working in Economic Offence Wing. Investigation in three crimes bearing crime No. I 137/2016, I 63/2016 and I 109/2015 were given to him. It was necessary on the part of the applicant to produce the case diary of the said crimes as per rule 225 (2) of Police Manual Part - 3, but the applicant has not produced the said case diary in the Office.

7. The complainant in C.R. No. I 137/2016 has filed a writ petition before the Hon'ble Bombay High Court, Aurangabad

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Bench and made allegations against the applicant contending the investigation has not been carried out by the applicant properly. Therefore, investigation of the said crime has been handed over to the Divisional Police Officer, Ahmednagar. The Enquiry Officer in his report has stated that the behavior, attitude and working of the applicant is harmful to the society in large and the same will badly affect the discipline of the police department. Therefore, the res. no. 4 has made recommendation on 17.5.2017 to the res. no. 3 for taking action and for transfer of the applicant from Ahmednagar, on 17.5.2017. The said report was placed in the meeting of the Range Establishment Board of res. no. 3 held on 31.5.2017 and that time the said board decided to transfer the applicant from Ahmednagar to Dhule on administrative ground to maintain law & order in the society and to protect the image of the Police Department in the society. It is their contention that the impugned order has been issued in view of the provisions of sec. 22 N of the Maharashtra Police Act, 2015.

8. It is contention of the respondents that the applicant Shri Sambhani R. Patil in O.A. no. 391/2017 was transferred on administrative ground. The res. no. 4 directed an enquiry about the behavior of the applicant Shri Sambhaji R. Patil on the basis of news published in the newspaper. On the basis of the report in

the enquiry, conducted by the res. no. 3, the respondent No. 4, recommended the transfer of the applicant. The Police Establishment Board on the basis of the recommendation of res. no. 4 and considering the irresponsible behavior of the applicant transferred the applicant from Dhule to Ahmednagar. The applicant has not accepted the transfer order as he filed sick report on 15.5.2017. It is their contention that the impugned order is illegal one and, therefore, no interference is called for in the order. It is their contention that both the applicants have been relieved from their present posting. They have not joined their new posting, which amounts to misconduct on their part. It is their contention that, show cause notice has been issued to the applicant Shri Sambhaji R. Patil on 19.8.2017. On these grounds they have prayed to reject the O.A.

9. I have heard Shri V.B. Wagh, learned Advocate for the applicants in both the matters, Shri M.P. Gude, learned Presenting Officer for the respondents in O.A. no. 390/2017 and Shri N.U. Yadav, learned Presenting Officer for the respondents in O.A. no. 391/2017. I have perused the documents placed on record.

10. Admittedly both the applicants have been transferred by the impugned order dtd. 31.5.2017. Admittedly, both of them have

been relieved from their present posting but they have not joined their new posting. They have been transferred by the Police Establishment Board at range level. Admittedly their transfers are within the range but out of the District where they are serving presently.

11. Learned Advocate for the applicants has submitted that the impugned order is not in view of the provisions of the sec. 22 N of the Maharashtra Police Act, 2015. He has submitted that both the applicants have not completed their normal tenure of posting at the present posting and their normal tenure of 4 years in the respective Districts and they have been abruptly transferred by the impugned order. He has not submitted that the applicant Shri Patil was due for transfer at the time of general transfer, but he had been retained on his request. But thereafter he has been transferred by the impugned transfer order. He has submitted that the impugned order suffers from malice in law and therefore the same requires to be quashed and set aside.

12. Learned Advocate for the applicants has submitted that the Police Establishment Board at District level has been constituted in view of provisions of sec. 22 J-1 of the Maharashtra Police Act, 2015 and its functions are mentioned in sec. 22 J-2 of the Act. The Police establishment Board at Dist. Level can recommend to the

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Police Establishment Board no. 2 regarding the posting and transfers of the police personnel up to the rank of Police Inspector out of the District in view of provisions of Section 22J-2(b) of the Act. He has submitted that as transfer of the applicants are out of District, where they are posted, the recommendation of the Police Establishment Board at Dist. Level is mandatory in view of the said provisions and on the basis of the said recommendations, the Police Establishment Board no. 2 has to effect the transfers of the applicants in view of sec. 22 F. He has submitted that in the instant case the transfer has been effected by the Police Establishment Board at Range Level and therefore, it is illegal as the Police Establishment Board at Range level is not empowered to transfer the applicants, who are Police Inspector in view of sec. 22 J-2 and 22 F of the Maharashtra Police Act, 2015.

13. He has submitted that the impugned order is a midterm and mid tenure transfer order and, therefore, in view of proviso to sec. 22 N (1), the State Government is the competent authority to effect the transfer of the applicants on the grounds specified in clause (a) to (e) thereof. He has submitted that the provisions of sec. 22N (2) are not applicable in the present case and therefore the impugned order is illegal and requires to be quashed.

14. Learned Advocate for the applicants has submitted that the impugned order is against the provisions of Maharashtra Police Act, 2015 and it has been issued mala-fide and with oblique motive. Therefore, it is not maintainable. In support of his submission he has placed reliance on the judgment in the case of **SOMESH TIWARI VS. UNION OF INDIA AND ORS. [AIR 2009 SC 1399]**, wherein it is observed as under :-

“19. Indisputably an order of transfer is an administrative order. There cannot be any doubt whatsoever that transfer, which is ordinarily an incident of service should not be interfered with, save in cases where inter alia mala fide on the part of the authority is proved. Mala fide is of two kinds – one malice in fact and the second malice in law.

20. The order in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of transfer and based on an irrelevant ground i.e. on the allegations made against the appellant in the anonymous complaint. It is one thing to say that the employer is entitled to pass an order of transfer in administrative exigencies but it is another thing to say that the order of transfer is passed by way of or in lieu of punishment. When an order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal.”

15. He has further submitted that the provisions of sec. 22N of Police Act has been considered by the Tribunal time and again in various matters and held that the transfer orders of P.S.I. can be made by the Police Establishment Board no. 2. In support of his submission he has placed reliance on the following judgments of the Tribunal :-

- (i) Common judgment delivered by principal seat of this Tribunal at Mumbai in O.A. nos. 466/2016 (Shri Arun Ramchandra Pawar Vs. the State of Maharashtra &Ors.) and 467/2016 (Shri Shrikant S. Khot Vs. the State of Maharashtra &Ors.) dated 12.7.2016.
- (ii) Judgment delivered at principal seat of this Tribunal at Mumbai in O.A. no. 191/2015 (Shri Narayan Mohan Sarangkar Vs. the State of Maharashtra &Ors.) dated 26.10.2015.
- (iii) Judgment delivered by the Tribunal at Mumbai in O.A. no. 453 to 456/2016 dated 13.10.2016.
- (iv) Judgment delivered by Aurangabad Bench in O.A. no. 177/2015 (Rameshwar Mohanrao Gade Vs. the State of Maharashtra &Ors.) dated 3.8.2015.

16. The learned Advocate for the applicants has further submitted that the transfer of the applicant Shri Vijay Shankarrao Tikole has been made on the basis of the enquiry conducted by

the res. no. 4 on the basis of anonymous complaint received against him. He has submitted that Govt. has decided not to take cognizance of anonymous complaint received against the Government servants. In support of his submission he has relied on G.R. dated 25.2.2015. He has submitted that on the basis of vague allegations and without giving any opportunity of hearing to the applicant, the impugned order has been issued. Therefore, he prayed to quash and set aside the impugned order.

17. Learned P.O. has submitted that there were serious allegations of misconduct of the applicants. Their conduct and attitude was affecting and damaging the image of the Police Department in the public at large. Therefore, on the basis of request made by the Superintendent of Police of the concerned District, the Police Establishment Board at Range level decided to transfer them and accordingly the impugned order has been issued. He has submitted that the matters i.e. proposal to transfer the applicants have been placed before the Police Establishment Board at Range level in its meeting dtd. 31.5.2017. There were allegations against the applicant Shri Vijay Shankarrao Tikole that he has not maintained the case diary in the various crimes in which he was Investigation Officer. Not only this, but he had not conducted the investigations properly in

of the proviso to sec. 22 N(2) of the Maharashtra Police Act, 2015 in the public interest and on account of administrative exigencies. He has submitted that Explanation (d) to Section 22 N(2) of the Act provides that Police Establishment Board at Range Level is the competent authority for the transfer of Police personnel up to the rank of Police Inspector, within the respective Range and, therefore, the impugned order issued by respondent No. 2 is legal. He has submitted that the impugned order is in accordance with the provisions of law and no exception can be taken to the same. In support of his submission he has placed reliance on the judgment of this Tribunal in O.A. no. 666/2016 (Vikas Ramlal Thorat Vs. the State of Maharashtra & Ors.) dated 21.4.2017.

19. Learned P.O. has submitted that both the applicants have been relieved in view of the impugned order, but they have not joined their new postings. The said conduct and behavior of the applicants is against the provisions of Service Rules and, therefore, it amounts to misconduct on their part. He has submitted that a show cause notice has been issued to the applicant Shri Patil by the concerned S.P. In spite of that he has not joined the duties. He has therefore, submitted that the present O.As. may be dismissed considering the said aspect above.

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20. On going through the documents, it reveals that, so far as the applicant Shri Vijay S. Tikole is concerned, there were several incidents of misconduct on his part. It was necessary and incumbent on the part of the applicant Shri Vijay Tikole to produce the case diary of the crimes as per rule 225 (2) of Police Manual Part - 3, but he has not produced the said case diary to the Office. Not only this, but the documents on record show that, the complainant in crime bearing C.R. no. I 137/2016 has filed writ petition before the Hon'ble High Court of Judicature Bombay, Bench at Aurangabad and made allegations against the applicant contending that the investigation has not been carried out properly by the applicant. Therefore, investigation of the said crime was handed over to the Sub-Divisional Police Officer, Ahmednagar. It is material to note that in the complaint filed against him, he was summoned by the Additional S.P. for enquiry, but he remained absent. The Enquiry Officer in his report stated that the behavior, attitude and working of the applicant is harmful to the society in large and the said will badly affect the discipline of the police department. Considering the said report, the res. no. 4 has made recommendation to the res. no. 3 on 17.5.2017 for taking action and for transfer of the applicant from Ahmednagar. Meeting of the Police Establishment Board at Range level was held

on 31.5.2017 and the board decided to transfer the applicant from Ahmednagar to Dhule on administrative ground to maintain law & order in the society and to protect the image of the Police Department in the society.

21. Likewise the conduct of the applicant Shri Sambhaji s/o Ramrao Patil shows that it was not befitting to a police officer. He quarreled with his colleague at public place when he was on duty. Therefore, the said matter had been published in the newspaper. An enquiry had been conducted, but the applicant has not appeared before the Enquiry Officer. When the S.D.P.O. visited the place of incident, he noted that the applicant was violent. Thereafter, the applicant had not reported to the duty and reported sick. Therefore, the S.P. made report to the Police Establishment Board at Range level for his transfer to Dhule District. The report/proposal of S.P. regarding transfer of the applicants has been placed before the Police Establishment Board Range level in the meeting dated 31.5.2017. The conduct and behavior of the applicants has been considered by the Members of the Board headed by the Special Inspector General of Police, Nasik Range. They considered the default reports of the applicants and found that the behavior of the applicants is not befitting to the Police Officer. Therefore, in the public interest and on account of

administrative exigency, they have decided to transfer the applicants out of the present Dist. to another Dist. Accordingly, the applicant Shri Vijay Shankarrao Tikole is transferred to Dhule and the applicant Shri Sambhaji s/o Ramrao Patil has been transferred to Ahmednagar by the impugned order dated 31.5.2017.

22. The explanation to sec. 22 N (2) defines the "Competent Authority" for the purpose of sub sec (2) for making transfers of the Police personnel in exceptional circumstances, in public interest and on account of administrative exigencies. In view of Clause (d) of Explanation to Sub Section (2) of Section 22 N the Police Establishment Board at level of Range is "Competent Authority" for transfer of Police personnel up to the rank of Police Inspector within the respective Range. The relevant provision is reproduced here in below :-

"22N. Normal tenure of Police Personnel, and competent authority.

(1) -- -- -- --

(2) In addition to the grounds mentioned in sub section (1), in exceptional cases, in public interest and on account of administrative exigencies, the Competent Authority shall make mid-term transfer of any Police Personnel of the Police Force :

Explanation.- For the purpose of this sub-section, the expression "Competent Authority" shall mean :-

*Police Personnel**Competent Authority*

(a)-----

(b)-----

(c)-----

(d) Police personnel up to the rank of Police Inspector for transfer within the respective Range, Commissionerate or Specialized Agency

Police Establishment Boards at the level of Range, Commissionerate or Specialized Agency, as the case may be ;

(e)-----

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23. The said provision shows that the Police Establishment Board at Range level is empowered to make transfers of the Police Inspectors in exceptional cases in the public interest and on account of administrative exigencies. Therefore, from the said provision, it is clear that the Police Establishment Board at Range level is the "Competent Authority" to effect the transfer of the Police Officer up to the rank of Police Inspectors. Therefore, the provisions of sec. 22 J(2) and sec. 22F on which, the learned Advocate for the applicants has placed reliance, are not attracted in this case. Therefore, I do not find substance in the submission advanced by learned Advocate for the applicants that the impugned order has been issued by the Police Establishment Board at Range level is without any authority and power.

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24. The Police Establishment Board at Range level has considered the nature of the complaints against the applicants, their behavior and considering the exceptional circumstances in order to maintain the discipline in the Police Force and to protect the image of the Police Department in the society effected the transfers of the applicants in the public interest and on account of administrative exigencies. I therefore, do not find any malice on the part of the respondents in issuing the impugned order of transfer.

25. I have gone through the decisions relied by the learned Advocate for the applicants in case of SOMESH TIWARI VS. UNION OF INDIA AND ORS. [AIR 2009 SC 1399]. I have no dispute regarding the settled legal principles laid down by the Hon'ble Supreme Court. In the said decision, it has been held that ordinarily transfer order, which is an administrative order should not be interfered with unless there is mala-fideneess on the part of the authority. In the instant cases, there is nothing on record to show that the respondents have issued the impugned order with mala-fide intention. Except the bald allegations of the applicants, there is nothing on record to show that the impugned order has been issued with mala-fide intention. Therefore, in my

opinion, there is no just reason to interfere in the impugned transfer order.

26. I have gone through the various judgments of this Tribunal relied by the learned Advocate for the applicants. On going through the facts in the instant cases and facts in the above cited judgments of the Tribunal, in my opinion, the said judgments are not useful to the applicants as the facts involved in those cases are totally different. Therefore, the same are not useful to the applicants.

27. In view of above discussion, it is clear that the impugned order has been issued by the res. no. 3 on the basis of the decision taken by the Police Establishment Board at Range level. The Police Establishment Board at Range level decided to transfer the applicants in the public interest on account of administrative exigencies and considering the exceptional circumstances mentioned in the minutes of the meeting dtd. 31.5.2017. The said order is in accordance with the provisions of sec. 22 N(2) of the Maharashtra Police Act, 2015. The Police Establishment Board at Range level is "Competent Authority" to make mid tenure and midterm transfers of the applicants. The impugned order is legal and in accordance with the provisions of the law. There is no illegality in the impugned order issued by the res. no. 3.

Therefore, no interference is called for in the impugned order. There is no merit in both the O.As. Hence, the same deserve to be dismissed.

28. In view of above discussion, both the O.As. stand dismissed with no order as to costs.

MEMBER (J)

ARJ-O.A. NOS. 390 & 391 BOTH (CF 2017BPP - TRANSFER)



क्र.पोमसं/१४-अ/६७/एमएम/१८७/२०१६.
महाराष्ट्र राज्य पोलीस मुख्यालय,
शहीद भगतसिंग मार्ग, कुलाबा,
मुंबई. दिनांक -०७/१०/२०१६

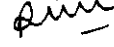
परिपत्रक

विषय :- पोलीस अधिका-यांची मुदतपूर्व बदली करण्याबाबतची मार्गदर्शक सुचना.

सर्व पोलीस घटक प्रमुखांना सुचित करण्यात येते की, पोलीस आस्थापना मंडळ क्र.२ कडे मुदतपूर्व बदलीचे प्रस्ताव पाठवितांना खालील बाबींचे पालन करावे.

०१. ज्या पोलीस अधिका-यांची बदली करावयाची आहे, त्यांच्या कसुरीबाबत, गैरकृत्याबाबत अथवा बेजबाबदार वर्तणूकीबाबत, वरिष्ठ अधिका-यांकडून प्राथमिक चौकशी करून घ्यावी. सदरील चौकशी संक्षिप्त स्वरूपाची असावी. त्या चौकशीमध्ये कसुरदार अधिका-याचा जबाब नोंदविणे अत्यंत आवश्यक आहे. (नैसर्गिक न्यायदानाच्या तत्वानुसार त्यांना योग्य ती संधी देणे आवश्यक असल्याने)
०२. चौकशीच्या निष्कर्षामध्ये कसुरदार अधिका-याचा दोष सकृतदर्शनी सिध्द होणे आवश्यक आहे, निर्विवादपणे सिध्द होत नसल्यास, तशी संशयास्पद वर्तणूक वाटते काय? ते स्पष्टपणे नमुद असणे आवश्यक आहे.
०३. चौकशी निष्कर्षामध्ये अधिका-यांची त्या पदावर/जिल्ह्यात/ परिक्षेत्रात/ आयुक्तालयात कार्यरत राहिल्यास प्रशासकीय गैरसोय कशी होणार आहे, नागरिकांना कसा त्रास होणार आहे इ. स्पष्टपणे नमुद करण्यात यावे.
०४. कसुरदार अधिका-यांना त्यांचे कर्तव्य बजाविण्यात मागील १ ते २ वर्षात दिलेले मेमो, गुन्ह्या संदर्भात घेतलेले चेक्स, मागविण्यात आलेले खुलासे/ स्पष्टीकरण, स्टेशन डायरी नोंद, अचानक भेटीची टिप्पणीमधील प्रतिकूल शेरे इ. जमा करून ते एकत्रितपणे कसुरी अहवालाबाबत पाठविणे आवश्यक राहिल. कसुरदार अधिका-याविरुद्ध जनतेकडून/ लोकप्रतिनिधीकडून प्राप्त झालेली तक्रार व त्या अनुषंगाने चौकशी करून त्याचा समावेश कसुरी अहवालात असावा.
०५. ज्या अधिका-यांची वर्तणूक योग्य वाटत नाही. त्यांना वेळोवेळी मेमो देऊन त्यांची एकत्रितरित्या साठवणूक करून भविष्यातील त्यांच्याविरुद्ध चौकशीनुसार त्याचा वापर करावा. कसुरदार अधिका-याचे गोपनीय अभिलेखावर प्रतिकूल शेरे असतील, तर त्याबाबतचा उल्लेख करावा. मुदतपूर्व बदली करतांना "जनहितार्थ" व प्रशासकीय सोयीचे म्हणजे "In public interest and for administration exigency" या बाबींचा विचार करण्यात येतो. म्हणून कसुरदार अधिका-यांना जिल्यात/ आयुक्तालयात त्या पदावर कार्यरत ठेवणे जनहितार्थ कसे योग्य नाही, हे स्पष्टपणे कसुरी अहवालात नमुद असणे आवश्यक आहे. त्याशिवाय कसुरी अहवाल सादर करू नये. कसुरदार अधिकारी त्यांच्या बदलीनंतर मा. महाराष्ट्र प्रशासकीय न्यायाधिकरणासमक्ष दावा दाखल करू शकतो. म्हणून त्याची पुर्वतयारी म्हणून परिपूर्ण कसुरी सिध्द करून मगच तशी बदली करणे उचित होईल.
०६. वरील सर्व बाबींची तंतोतंत पूर्तता करून त्याप्रमाणे अहवाल या कार्यालयास पाठविणे आवश्यक आहे.

०७. सदरची प्रक्रिया जिल्ह्यांतर्गत, परिक्षेत्रांतर्गत किंवा पोलीस आयुक्तालयांतर्गत बदली करतांना सुध्दा अंमलात आणावी की, जेणेकरून संबंधित अधिका-यांची बदली ही न्याय्य कारणाकरिता करण्यात आल्याबाबत, प्रकरणात मा. महाराष्ट्र प्रशासकीय न्यायाधिकरणासमक्ष योग्यरित्या बाजू मांडता/ हाताळता येणे शक्य होईल.



(राजकुमार व्हटकर)

विशेष पोलीस महानिरीक्षक (आस्थापना)
पोलीस महासंचालक, म.रा.मुंबई यांचे करिता.

प्रति,

सर्व पोलीस आयुक्त,
अपर पोलीस महासंचालक, लोहमार्ग, महाराष्ट्र राज्य, मुंबई.
अपर पोलीस महासंचालक, रा.रा.पो.बल., मुंबई.
अपर पोलीस महासंचालक, प्रशिक्षण व खास पथके, म.रा.मुंबई.
अपर पोलीस महासंचालक, वाहतूक, म.रा.,मुंबई.
अपर पोलीस महासंचालक, दहशतवाद विरोधी पथक, महाराष्ट्र राज्य, मुंबई.
अपर पोलीस महासंचालक व संचालक, बिनतारी संदेश, म.रा.पुणे.
अपर पोलीस महासंचालक, विशेष कृती, महाराष्ट्र राज्य, मुंबई.
संचालक, महाराष्ट्र पोलीस अकादमी, नाशिक.
संचालक, महाराष्ट्र गुप्तवार्ता प्रबोधिनी, पुणे.
विशेष पोलीस महानिरीक्षक (नविअ), नागपूर
विशेष पोलीस महानिरीक्षक, सुरक्षा, दादर मुंबई.
सर्व परिक्षेत्रीय विशेष पोलीस महानिरीक्षक.
विशेष पोलीस महानिरीक्षक, मोटार परिवहन विभाग, म.रा.पुणे.
विशेष पोलीस महानिरीक्षक, ना.ह.सं., मुंबई.
विशेष पोलीस महानिरीक्षक, राज्य राखीव पोलीस बल, पुणे/ नागपूर.
सर्व पोलीस अधीक्षक
सर्व समादेशक, रा.रा.पो.बल.गट १ ते १६
सर्व प्राचार्य, पोलीस प्रशिक्षण विद्यालय
प्राचार्य, युओटीसी, नागपूर.
उपसंचालक, डी.टी.एस.नाशिक

प्रत :- महासंचालक, लाचलुचपत प्रतिबंधक विभाग, महाराष्ट्र राज्य, मुंबई (सस्नेह)
आयुक्त, राज्य गुप्तवार्ता विभाग, म.रा.,मुंबई.
अपर पोलीस महासंचालक, गु.अ.वि., म.रा. पुणे.

प्रत सविनय सादर

अपर मुख्य सचिव, महाराष्ट्र शासन, गृहविभाग, मंत्रालय, मुंबई.

प्रत :- पोलीस महासंचालक, महाराष्ट्र राज्य, मुंबई यांचे कार्यालयातील सर्व कार्यासन अधिकारी.



तात्काळ/न्यायालयीन प्रकरण.
क्र.पोमसं/१४अ/६७/एमएन/३२८/२०१६.
महाराष्ट्र राज्य पोलीस मुख्यालय,
शहीद भगतसिंग मार्ग, कुलाबा,
मुंबई. दिनांक - ०८/११/२०१७.

संदर्भ:- या कार्यालयाचे परिपत्रक समक्रमांक दि. ०७ ऑक्टोबर, २०१६.

विषय:- महाराष्ट्र पोलीस अधिनियम, १९५१ मधील कलम २२न नुसार स्थापन करण्यात आलेल्या विविध पोलीस आस्थापना मंडळांना पोलीस निरीक्षक पदापर्यंत बदल्या करण्याच्या असलेल्या प्राधिका-यांच्याबाबतीतील मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपूर खंडपीठाने, मूळ अर्ज क्र.७७०/२०१६ (श्री.प्रमोद सिताराम डोंगरे, पोनि विरुद्ध महाराष्ट्र शासन आणि इतर) यामध्ये दि.०७ ऑक्टोबर, २०१७ रोजी दिलेले आदेश.

परिपत्रक

राज्यातील सर्व घटक पोलीस प्रमुखांचे लक्ष या कार्यालयाच्या संदर्भामधील नमुद परिपत्रकाकडे वेधण्यात येत आहे, त्याची छायांकित प्रत यासोबत पुन्हा सुलभ संदर्भाकरिता जोडलेली आहे. या परिपत्रकामध्ये पोलीस कर्मचारी ते पोलीस निरीक्षक दर्जापर्यंतचे पोलीस कर्मचारी आणि अधिकारी यांचा सामान्य पदावधी पूर्ण होण्याआधी जर महाराष्ट्र पोलीस अधिनियम, १९५१ मधील कलम २२न (२) मधील निकषांच्या आधारावर बदली करावयाची असल्यास कोणती योग्य ती कार्यवाही करणे आवश्यक आहे, याचा उहापोह करण्यात आलेला आहे.

०२. राज्यातील सर्व घटक पोलीस प्रमुखांच्या त्यांच्याकडे असलेल्या पोलीस आस्थापना मंडळ (संक्षिप्त "पो.आ.मं.") यांना पोलीस कर्मचारी ते पोलीस निरीक्षक पर्यंत सामान्य पदावधी पूर्ण होण्याच्याआधी असलेल्या अधिकाराच्याबाबतीत नुकतेच मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपूर खंडपीठाने, विषयांकित नमुद प्रकरणांत पो.आ.मं.क्र.२ यांनी केलेली कार्यवाही कायदेशिर व योग्य असल्याबद्दल महत्वाची निरीक्षणे केलेली आहे.

०३. उपरोक्त विषयात नमुद केल्याप्रमाणे मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपूर खंडपीठासमक्ष पोलीस निरीक्षक श्री.प्रमोद सिताराम डोंगरे यांची चंद्रपूर जिल्ह्यातील राजुरा पोलीस स्टेशन येथून नागपूर शहर येथे पोलीस आस्थापना मंडळ क्र.२ यांनी दि.३०/०९/२०१६ रोजी निर्गमित केलेले बदलीचे आदेश उपरोक्त मूळ अर्जामध्ये आढावित केले होते.

०४. याप्रकरणी मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपूर खंडपीठाने दि.०७ ऑक्टोबर, २०१७ रोजी न्यायनिर्णय दिला आहे, सोबत त्याची छायांकित प्रत जोडली आहे. या आदेशातील मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण यांची महत्वाची निरीक्षणे/ न्यायनिवाडा/ Ratio खालीलप्रमाणे राज्यातील सर्व घटक पोलीस प्रमुखांच्या माहितीसाठी पुर्नमुद्रीत करण्यात येत आहे.

9. As per the provisions of Section 22 (J2) (b) the Police Establishment Board no.2 is authorised to pass posting and transfer orders of the Officers to the level of Police Inspector out of District.

The said Section reads as under :-

"22J2 - Functions of Police Establishment Board at District Level

The Police Establishment Board at District Level shall perform the following functions, namely –

(a) The Board shall decide all transfers, postings of Police Personnel to the rank of Police Inspector within the District Police Force.

(b) The Board shall be authorised to make appropriate recommendations to the Police Establishment Board no.2 regarding the postings and transfers out of the District.

Explanation – For the purposes of this section, the expression "Police Personnel" means a Police Personnel to the rank of Police Inspector".

10. The Id. P.O. has also placed on record the Minutes of the meeting in which the applicant's transfer was considered. In the said Minutes of the meeting the conduct of the applicant has been considered and it was also considered as to whether the working of the applicant at Rajura in the given circumstances would be desirable. It seems that the overall manner of working by applicant was considered and the Members of the Board came to the conclusion that it was not desirable to keep the applicant at Rajura in the interest of public and that it was an unexceptional case whereby it was necessary to transfer him out of Chandrapur district and therefore it was decided to transfer the applicant at Nagpur. The Minutes of the meeting are well supported by the various documents which were placed before Competent Committee.

11. As already stated the Police Establishment Board at District level can decide all transfers, postings of police personnel to the rank of Police Inspector within the District Police Force it includes any transfer including mid-term transfer or mid tenure transfer. The only embargo is that if the transfer is to be made out of District, then the Police Establishment Board at district level has to make recommendation to the Police Establishment Board no.2. In this case the same has been done and accordingly the Police Establishment Board no.2 has passed the order of transfer of the applicant. The Tribunal is not expected to go into the details of the Minutes of the meeting and prima facie it seems that the Board has considered the conduct of the applicant and his way of working and came to the conclusion unanimously that it will be in the public interest to transfer the applicant out of Rajura, i.e., Chandrapur District. The Tribunal is not expected to interfere in such administrative decision taken by the Competent Authority established under law. It is nowhere seen from the impugned order that it is in any manner punitive. Even for the argument sake, it is accepted that there were complaints against the applicant, the applicant was not transferred on account of such complaint but on the basis of his overall working at particular Station for which admittedly preliminary inquiry was also held. I have carefully gone through the Judgments on which the respondent have relied upon such as Judgment in W.P. 1277/2016 passed by the Hon'ble High Court of Judicature of Bombay at Bench Aurangabad on 5/5/2016 in the case of **Sanjay Gulabrao Deshmukh vs. State & Ors.**, O.A.455/2015 passed by Maharashtra Administrative Tribunal, Bench at Auraganbad on 3/11/2015 in case of **Omprakash Dhondiram Mane vs. The Director General of Police, Maharashtra State, Mumbai & ors.**, and the Review Petition in the same case bearing no.10/2015 on 14/12/2015. I have also gone through Judgment in W.P. no.14200/2016 passed by the Hon'ble High Court of Judicature at Bombay on 20/1/2017 in the case of **State of Maharashtra Vs. S.K. Kasbse & Ors.**

12. Perusal of the documents on record so also the original Minutes of meeting of the Police Establishment Board no.2 clearly shows that the Police Establishment Board has considered all the pros and cons of the case against the applicant and it came to the conclusion that the recommendation for transfer of the applicant out of district was in the public interest and therefore in the such circumstances it will not be in the interest of administration as well as in the interest of justice to interfere in the transfer of the applicant. Hence, the following order :-

ORDER

The O.A. stands dismissed with no order as to costs.

०५. थोडक्यात, वरील मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपूर खंडपीठ यांनी नोंदविलेले Ratio/ निरीक्षणे राज्यातील सर्व घटक पोलीस प्रमुखांच्या निदर्शनास आणण्यात येत आहे की, कोणत्याही पोलीस कर्मचारी ते पोलीस अधिकारी पर्यंतच्या पोलीस अधिका-यांची जर महाराष्ट्र पोलीस अधिनियम, १९५१ मधील कलम २२न(२) मधील तरतुदीनुसार म्हणजे (1) Exceptional cases (2) Public Interest and (3) On account of Administrative exigency या तीघही निकषांच्या आधारावर ज्याप्रकरणामध्ये सामान्य पदावधी (Normal Tenure) पूर्ण होण्याच्या आधी जर संबंधित पोलीस आस्थापना मंडळाला बदली करावयाची असेल तर, तशा सुयोग्य प्रकरणात ज्या कर्मचारी/ अधिकारी (पो.नि.पर्यंत) यांची त्यांच्या प्रतिकूल कामगिरीवरून किंवा त्यांच्या प्रतिकूल वर्तणुकीच्या आधारावर बदली करावयाची असल्यास त्यांच्या वर्तणुकीच्याबाबतीत संबंधित घटक पोलीस प्रमुखांनी निपक्षःपातीपणे प्रथमतः प्राथमिक चौकशी करणे आवश्यक आहे.

०६. अशा प्राथमिक चौकशीमध्ये, ज्या पोलीस कर्मचारी/ अधिका-यांचा (पो.नि.पर्यंत) सामान्य पदावधी पूर्ण होण्याच्याआधी बदली करावयाची असेल, तर त्यांचा सुद्धा अशा प्राथमिक चौकशीमध्ये जबाब नोंदवून घेणे आवश्यक आहे.

०७. अशाप्रकारे सर्व जाब-जबाबाची नोंदणी केल्यानंतर, जर प्राथमिक चौकशीमध्ये ज्या अशा संबंधित पोलीस कर्मचारी/ अधिका-यांचा (पो.नि.पर्यंत) सामान्य पदावधी पूर्ण होण्याआधी बदली करावयाची असेल, त्यांच्याविरुद्ध प्राथमिक चौकशीमध्ये सकृतदर्शनी त्यांनी त्यांची वर्तणूक प्रतिकूल आढळल्याची बाब पुढे आल्यास, अशा प्राथमिक चौकशीचा अहवाल त्याच्या सर्व कागदपत्रांसह संबंधित "पोलीस आस्थापना मंडळासमक्ष" ठेवणे आवश्यक आहे.

०८. अशाप्रकारे प्राथमिक चौकशीचा अहवाल व त्यासोबतचे कागदपत्र संबंधित "पोलीस आस्थापना मंडळासमक्ष" ठेवल्याबाबत व त्यावर पोलीस आस्थापना मंडळाने संबंधित कर्मचारी/ पोलीस अधिकारी यांचा सामान्य पदावधी पूर्ण होण्याच्याआधी बदली करण्याचा निर्णय हा वर नमुद कलम २२न(२) मधील तीघही निकष पूर्ण करित असल्याबाबत स्पष्ट उल्लेख, संबंधित पोलीस आस्थापना मंडळाच्या "इतिवृत्त" मध्ये करणे आवश्यक आहे. अशा इतिवृत्तासोबत संबंधित "प्राथमिक चौकशी अहवाल सहपत्र" म्हणून देखील जोडणे आवश्यक आहे व त्याला योग्य ते पृष्ठ क्रमांक देणे देखील आवश्यक आहे. पोलीस आस्थापना मंडळाचा अशाप्रकारे निर्णय घेतांना बैठकीचा दिनांक किंवा सदरील बाब वर्तूळीत पद्धतीने संबंधित "पोलीस आस्थापना मंडळ" समक्ष ठेवण्यांत आले असल्यास तसे स्पष्ट नमुद करणे आवश्यक आहे.

०९. तरी वरील सर्व बाबी राज्यातील सर्व पोलीस आस्थापना मंडळ यांनी त्यांच्या अखत्यारितील पोलीस कर्मचारी ते पोलीस निरीक्षक पदापर्यंतच्या पोलीस कर्मचारी आणि अधिकारी यांचा सामान्य पदावधी पूर्ण होण्याआधी महाराष्ट्र पोलीस अधिनियम, १९५१ मधील कलम २२न(२) मधील निकष व तरतुदीनुसार बदल्या करतांना कटाक्षाने लक्षात घ्याव्यात, जेणेकरून त्याप्रमाणे कार्यवाही केल्यास मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण किंवा मा.उच्च न्यायालयाकडून अशा पोलीस आस्थापना मंडळांनी केलेली कार्यवाही योग्य व न्यायोचित असल्याचे निर्णय मा.संबंधित महाराष्ट्र प्रशासकीय न्यायाधिकरण/ मा.उच्च न्यायालयाकडून आपणांस मिळू शकतील.

संलग्न:- वरिलप्रमाणे.

pmr

(राजकुमार कटकर)

विशेष पोलीस महानिरीक्षक (आस्थापना),
पोलीस महासंचालक, म.रा.,मुंबई यांचे करिता.

प्रति,

सर्व पोलीस आयुक्त,
अपर पोलीस महासंचालक, लोहमार्ग, महाराष्ट्र राज्य, मुंबई.
अपर पोलीस महासंचालक, रा.रा.पो.बल., मुंबई.
अपर पोलीस महासंचालक, प्रशिक्षण व खास पथके, म.रा.मुंबई.
अपर पोलीस महासंचालक, वाहतूक, म.रा.,मुंबई.
अपर पोलीस महासंचालक, दहशतवाद विरोधी पथक, महाराष्ट्र राज्य, मुंबई.
अपर पोलीस महासंचालक व संचालक, बिनतारी संदेश, म.रा.पुणे.
अपर पोलीस महासंचालक, विशेष कृती, महाराष्ट्र राज्य, मुंबई.
संचालक, महाराष्ट्र पोलीस अकादमी, नाशिक.
संचालक, महाराष्ट्र गुप्तवार्ता प्रबोधिनी, पुणे.
विशेष पोलीस महानिरीक्षक (नविअ), नागपूर
विशेष पोलीस महानिरीक्षक, सुरक्षा, दादर मुंबई.
सर्व परिक्षेत्रीय विशेष पोलीस महानिरीक्षक.
विशेष पोलीस महानिरीक्षक, मोटार परिवहन विभाग, म.रा.पुणे.
विशेष पोलीस महानिरीक्षक, ना.ह.सं., मुंबई.
विशेष पोलीस महानिरीक्षक, राज्य राखीव पोलीस बल, पुणे/ नागपूर.
सर्व पोलीस अधीक्षक
सर्व समादेशक, रा.रा.पो.बल.गट १ ते १६
सर्व प्राचार्य, पोलीस प्रशिक्षण विद्यालय
प्राचार्य, युओटीसी, नागपूर.
उपसंचालक, डी.टी.एस.नाशिक

प्रत :- महासंचालक, ॲन्टी करप्शन ब्युरो, महाराष्ट्र राज्य, मुंबई (सस्नेह)
आयुक्त, राज्य गुप्तवार्ता विभाग, म.रा.,मुंबई.
अपर पोलीस महासंचालक, गु.अ.वि., म.रा. पुणे.

प्रत सविनय सादर

अपर मुख्य सचिव, महाराष्ट्र शासन, गृहविभाग, मंत्रालय, मुंबई.

प्रत :- पोलीस महासंचालक, महाराष्ट्र राज्य, मुंबई यांचे कार्यालयातील सर्व कार्यासन अधिकारी.



क्र.पोमसं/१४-अ/६७/एमएम/१८७/२०१६.
महाराष्ट्र राज्य पोलीस मुख्यालय,
शहीद भगतसिंग मार्ग, कुलाबा,
मुंबई. दिनांक - ०७/१०/२०१६

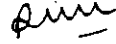
परिपत्रक

विषय :- पोलीस अधिका-यांची मुदतपूर्व बदली करण्याबाबतची मार्गदर्शक सुचना.

सर्व पोलीस घटक प्रमुखांना सुचित करण्यात येते की, पोलीस आस्थापना मंडळ क्र.२ कडे मुदतपूर्व बदलीचे प्रस्ताव पाठवितांना खालील बाबींचे पालन करावे.

०१. ज्या पोलीस अधिका-यांची बदली करावयाची आहे, त्यांच्या कसुरीबाबत, गैरकृत्याबाबत अथवा बेजबाबदार वर्तणूकीबाबत, वरिष्ठ अधिका-यांकडून प्राथमिक चौकशी करून घ्यावी. सदरील चौकशी संक्षिप्त स्वरूपाची असावी. त्या चौकशीमध्ये कसुरदार अधिका-याचा जबाब नोंदविणे अत्यंत आवश्यक आहे. (नैसर्गिक न्यायदानाच्या तत्वानुसार त्यांना योग्य ती संधी देणे आवश्यक असल्याने)
०२. चौकशीच्या निष्कर्षामध्ये कसुरदार अधिका-याचा दोष सकृतदर्शनी सिद्ध होणे आवश्यक आहे, निर्विवादपणे सिद्ध होत नसल्यास, तशी संशयास्पद वर्तणूक वाटते काय? ते स्पष्टपणे नमुद असणे आवश्यक आहे.
०३. चौकशी निष्कर्षामध्ये अधिका-यांची त्या पदावर/जिल्ह्यात/ परिक्षेत्रात/ आयुक्तालयात कार्यरत राहिल्यास प्रशासकीय गैरसोय कशी होणार आहे, नागरिकांना कसा त्रास होणार आहे इ. स्पष्टपणे नमुद करण्यात यावे.
०४. कसुरदार अधिका-यांना त्यांचे कर्तव्य बजाविण्यात मागील १ ते २ वर्षात दिलेले मेमो, गुन्ह्या संदर्भात घेतलेले चेक्स, मागविण्यात आलेले खुलासे/ स्पष्टीकरण, स्टेशन डायरी नोंद, अचानक भेटीची टिप्पणीमधील प्रतिकूल श्रे इ. जमा करून ते एकत्रितपणे कसुरी अहवालाबाबत पाठविणे आवश्यक राहिल. कसुरदार अधिका-याविरुद्ध जनतेकडून/ लोकप्रतिनिधीकडून प्राप्त झालेली तक्रार व त्या अनुषंगाने चौकशी करून त्याचा समावेश कसुरी अहवालात असावा.
०५. ज्या अधिका-यांची वर्तणूक योग्य वाटत नाही. त्यांना वेळोवेळी मेमो देऊन त्यांची एकत्रितरित्या साठवणूक करून भविष्यातील त्यांच्याविरुद्ध चौकशीनुसार त्याचा वापर करावा. कसुरदार अधिका-याचे गोपनीय अभिलेखावर प्रतिकूल श्रे असतील, तर त्याबाबतचा उल्लेख करावा. मुदतपूर्व बदली करतांना "जनहितार्थ" व प्रशासकीय सोयीचे म्हणजे "In public interest and for administration exigency" या बाबींचा विचार करण्यात येतो. म्हणून कसुरदार अधिका-यांना जिल्यात/ आयुक्तालयात त्या पदावर कार्यरत ठेवणे जनहितार्थ कसे योग्य नाही, हे स्पष्टपणे कसुरी अहवालात नमुद असणे आवश्यक आहे. त्याशिवाय कसुरी अहवाल सादर करू नये. कसुरदार अधिकारी त्यांच्या बदलीनंतर मा. महाराष्ट्र प्रशासकीय न्यायाधिकरणासमक्ष दावा दाखल करू शकतो. म्हणून त्याची पुर्वतयारी म्हणून परिपूर्ण कसुरी सिद्ध करून मगच तशी बदली करणे उचित होईल.
०६. वरील सर्व बाबींची तंतोतंत पूर्तता करून त्याप्रमाणे अहवाल या कार्यालयास पाठविणे आवश्यक आहे.

०७. सदरची प्रक्रिया जिल्ह्यांतर्गत, परिक्षेत्रांतर्गत किंवा पोलीस आयुक्तालयांतर्गत बदली करतांना सुध्दा अंमलात आणावी की, जेणेकरून संबंधित अधिका-यांची बदली ही न्याय्य कारणाकरिता करण्यात आल्याबाबत, प्रकरणात मा. महाराष्ट्र प्रशासकीय न्यायाधिकरणासमक्ष योग्यरित्या बाजू मांडता/ हाताळता येणे शक्य होईल.


(राजकुमार वटकर)

विशेष पोलीस महानिरीक्षक (आस्थापना)
पोलीस महासंचालक, म.रा.मुंबई यांचे करिता.

प्रति,

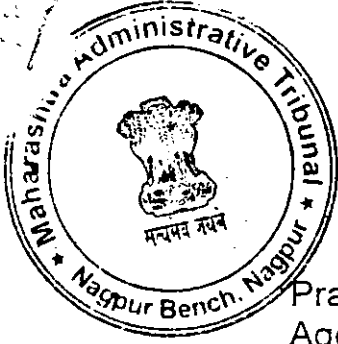
सर्व पोलीस आयुक्त,
अपर पोलीस महासंचालक, लोहमार्ग, महाराष्ट्र राज्य, मुंबई.
अपर पोलीस महासंचालक, रा.रा.पो.बल., मुंबई.
अपर पोलीस महासंचालक, प्रशिक्षण व खास पथके, म.रा.मुंबई.
अपर पोलीस महासंचालक, वाहतूक, म.रा., मुंबई.
अपर पोलीस महासंचालक, दहशतवाद विरोधी पथक, महाराष्ट्र राज्य, मुंबई.
अपर पोलीस महासंचालक व संचालक, बिनतारी संदेश, म.रा.पुणे.
अपर पोलीस महासंचालक, विशेष कृती, महाराष्ट्र राज्य, मुंबई.
संचालक, महाराष्ट्र पोलीस अकादमी, नाशिक.
संचालक, महाराष्ट्र गुप्तवार्ता प्रबोधिनी, पुणे.
विशेष पोलीस महानिरीक्षक (नविअ), नागपूर.
विशेष पोलीस महानिरीक्षक, सुरक्षा, दादर मुंबई.
सर्व परिक्षेत्रीय विशेष पोलीस महानिरीक्षक.
विशेष पोलीस महानिरीक्षक, मोटार परिवहन विभाग, म.रा.पुणे.
विशेष पोलीस महानिरीक्षक, ना.ह.सं., मुंबई.
विशेष पोलीस महानिरीक्षक, राज्य राखीव पोलीस बल, पुणे/ नागपूर.
सर्व पोलीस अधीक्षक
सर्व समादेशक, रा.रा.पो.बल.गट १ ते १६
सर्व प्राचार्य, पोलीस प्रशिक्षण विद्यालय
प्राचार्य, युओटीसी, नागपूर.
उपसंचालक, डी.टी.एस.नाशिक

प्रत :- महासंचालक, लाचलुचपत प्रतिबंधक विभाग, महाराष्ट्र राज्य, मुंबई (सन्नेह)
आयुक्त, राज्य गुप्तवार्ता विभाग, म.रा., मुंबई.
अपर पोलीस महासंचालक, गु.अ.वि., म.रा. पुणे.

प्रत सविनय सादर

अपर मुख्य सचिव, महाराष्ट्र शासन, गृहविभाग, मंत्रालय, मुंबई.

प्रत :- पोलीस महासंचालक, महाराष्ट्र राज्य, मुंबई यांचे कार्यालयातील सर्व कार्यासन अधिकारी.

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 770 of 2016**

Pramod S/o Sitaram Dongre,
Aged about 53 years, Occ. Service,
R/o Ramkrishna Society-2,
Narendra Nagar, Nagpur.

(For Private Use only)

Applicant.

Versus

1) State of Maharashtra,
through its Additional Chief Secretary,
Home Department,
having its office at Mantralaya,
Mumbai-400 032.

2) Director General of Police,
having office at near Regal Theatre Colaba,
Mumbai.

3) Superintendent of Police,
Chandrapur.

Respondents

Shri S.P. Palshikar, Advocate for the applicant.

Shri S.A. Sainis, Id. P.O. for the respondents.

Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).

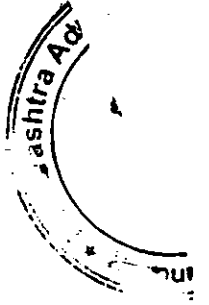
JUDGEMENT

(Delivered on this 7th day of October, 2017)

Heard Shri S.P. Palshikar, Id. Counsel for the applicant
and Shri S.A. Sainis, Id. P.O. for the respondents.

2. Shri Pramod Sitaram Dongre is the Police Inspector since
2008. In 2014 the applicant was working at Nagpur and was

transferred to Police Station Sawali, Dist. Chandrapur. On 6/5/2014 he was again transferred from Police Station, Sawali, Dist. Chandrapur to Police Station, Rajura, Dist. Chandrapur and at the time of impugned order of his transfer dated 29/9/2016 he was at Rajura, Dist. Chandrapur. Vide impugned order dated 29/9/2016 the applicant has been transferred from the post of Police Inspector, Police Station, Rajura, Dist. Chandrapur to Police Station, Nagpur city and was also relieved from the said post immediately on 30/9/2016. The applicant has challenged both these orders, i.e., his order of transfer dated 29/9/2016 and relieving order dated 30/9/2016 in this O.A. According to the applicant, as per the Maharashtra Police Act, the normal tenure of the Police Officer in the district is two years, but before completion of that normal tenure the applicant has been transferred. The said order is therefore mid-term and mid tenure and against the provisions of the Maharashtra Police Act. The respondent no.2, i.e., the Director General of Police, Mumbai has no authority to ~~issue transfer order of the applicant.~~ The impugned order of transfer on complaint is also illegal and the same has been decided by the Principal Bench of this Tribunal in O.A. 191/2015 on 26/10/2015 and O.A.609/15 on 11/3/2015 and by the Hon'ble Tribunal, Bench at Nagpur Bench in O.A.609/15 decided on 11/3/2015 and O A.446/467 decided on 12/7/2016 and also again by this Tribunal in O.A.309/2016.



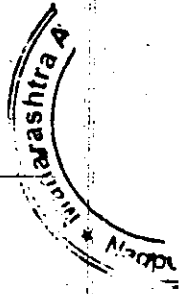
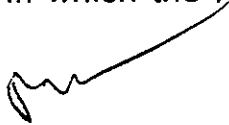


3. It is stated that the applicant is sincere and hard working Police Officer and his ACRs. are Outstanding and such a person is transferred abruptly without completing his normal tenure then certainly a stigma upon the person. The applicant has therefore prayed that both the impugned orders, i.e., dated 29/9/2016 and 30/9/2016 be quashed and set aside and respondents be directed to allow the applicant to continue to work at Police Station, Rajura, Dist. Chandrapur.

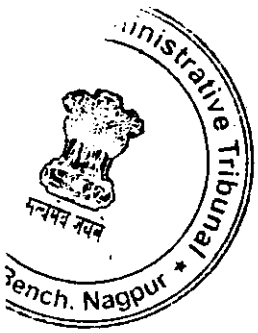
4. Vide order dated 30/1/2017 the Hon'ble Chairman of this Tribunal was pleased to direct the respondent no.2, i.e., the Director General of Police, Mumbai himself to affirm the affidavit by calling papers of the O.A. and reading those himself and with other directions.

5. Accordingly, the reply-affidavit has been filed by the respondent no.2. The tenor of the reply-affidavit shows that the applicant's case for transfer was recommended by the Police Establishment Board no.1 to Police Establishment Board no.2 as the conduct of the applicant was not in the public interest and was undesirable. The respondents denied that the service record of the applicant is clean and unblemished and he was working to the utmost satisfaction of his superiors. It is admitted that the applicant has not completed his normal tenure of two years at Rajura Police Station but

it is stated that the said tenure has been curtailed by the Police Establishment Board no.2 invoking the powers conferred upon it to effect the mid-tenure transfer after carefully scrutinising the facts and circumstances. The respondents have also placed reliance on the Judgment delivered by the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad Bench in Writ Petition No. 722/2015 and particularly Para nos. 7 to 11 of the said Judgment and also the order passed in WP 1277/2016. The respondents have also placed reliance on the various Judgments of this Tribunal such as O.A.455/2015 in case of one Shri O.D. Mane decided by the Tribunal at Aurangabad Bench on 3/11/2015 and so on. According to the respondents the Competent Authority has every right to transfer the employee as per the provisions of the Maharashtra Police Act and such powers are given to Police Establishment Board no.2. It is stated that the case of the applicant was considered in the Police Establishment Board by all the Members and the Members were ~~satisfied about the alleged misconduct or undesirability or unbecoming~~ conduct of the applicant and therefore unanimously decided to transfer the applicant out of district and has also recorded reasons for the same. It is however made clear that the transfer is not affected as a punishment. Reliance has been placed on the Judgment of Hon. Supreme Court of India in the case of Union of India and Ors Vs. Shri Janardhan Debanath and Ano. In which the Hon'ble Supreme



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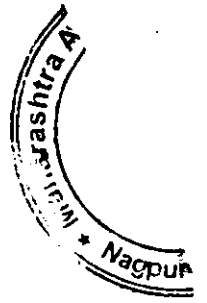


Court has laid down the ratio that transferring the Govt. employee utter finding him/her undesirable and unbecoming cannot be term as punitive transfer. The copy of the said Judgment is also placed on record as A-A-7.

6. As regards the applicant it is stated that an inquiry was conducted by Dy. Superintendent of Police probationer about sale of 2 Trucks seized by Rajura Police. These 2 trucks were parked at Sasti Outpost and were in custody of Head Constable Shri Musale working as Muddemal Mohrar. The Head Constable did not follow the procedure while disposing of this property and has kept the sale process with himself. When the purchaser of the Truck inquired the applicant who was having knowledge of the sale, his statement was recorded and the conduct of the applicant was found doubtful. The Superintendent of Police, Chandrapur submitted default report alongwith several correspondence made by him with applicant and also mentioned about the inability of the applicant to control illicit activities in his jurisdiction. The Superintendent of Police, Chandrapur also issued several memorandum and demy official letters for improving the conduct of the applicant. All these correspondence is placed on record at Annex-A-6.

7. According to the respondents all the papers were placed before Police Establishment Board no.2, i.e., the Competent Authority

to pass transfer order and the said Committee in its meeting discussed the matter. As already stated all the Members of the Committee were satisfied about the misconduct or undesirability or unbecoming conduct of the applicant and therefore unanimously decided to transfer the applicant. The transfer was not however not effected as a punishment as mentioned by the applicant in para-7 (vi).



8. Perusal of the transfer order which is at P.B. page-14 (Annex-A-1) dated 29/9/2016 is an order passed by Police Establishment Board no.2 wherein it is mentioned that the Board has considered the report against the applicant and relevant documents and has come to the conclusion that the applicant be transferred out of Chandrapur District and therefore the applicant was transferred to Nagpur City.

9. As per the provisions of Section 22 (J2) (b) the Police Establishment Board no.2 is authorised to pass posting and transfer orders of the Officers to the level of Police Inspector out of District. The said Section reads as under :-

"22J2 - Functions of Police Establishment Board at District Level

The Police Establishment Board at District Level shall perform the following functions, namely -

(a) The Board shall decide all transfers, postings of Police Personnel to the rank of Police Inspector within the District Police Force.

(b) The Board shall be authorised to make appropriate recommendations to the Police Establishment Board no.2 regarding the postings and transfers out of the District.

A handwritten signature in black ink, appearing to be a stylized 'W' or similar mark.

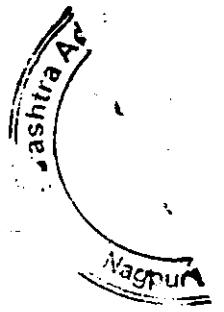
Explanation – For the purposes of this section, the expression "Police Personnel" means a Police Personnel to the rank of Police Inspector".



10. The Id. P.O. has also placed on record the Minutes of the meeting in which the applicant's transfer was considered. In the said Minutes of the meeting the conduct of the applicant has been considered and it was also considered as to whether the working of the applicant at Rajura in the given circumstances would be desirable. It seems that the overall manner of working by applicant was considered and the Members of the Board came to the conclusion that it was not desirable to keep the applicant at Rajura in the interest of public and that it was an unexceptional case whereby it was necessary to transfer him out of Chandrapur district and therefore it was decided to transfer the applicant at Nagpur. The Minutes of the meeting are well supported by the various documents which were placed before Competent Committee.

11. As already stated the Police Establishment Board at District level can decide all transfers, postings of police personnel to the rank of Police Inspector within the District Police Force it includes any transfer including mid-term transfer or mid tenure transfer. The only embargo is that if the transfer is to be made out of District, then the Police Establishment Board at district level has to make recommendation to the Police Establishment Board no.2. In this case

the same has been done and accordingly the Police Establishment Board no.2 has passed the order of transfer of the applicant. The Tribunal is not expected to go into the details of the Minutes of the meeting and prima facie it seems that the Board has considered the conduct of the applicant and his way of working and came to the conclusion unanimously that it will be in the public interest to transfer the applicant out of Rajura, i.e., Chandrapur District. The Tribunal is not expected to interfere in such administrative decision taken by the Competent Authority established under law. It is nowhere seen from the impugned order that it is in any manner punitive. Even for the argument sake, it is accepted that there were complaints against the applicant, the applicant was not transferred on account of such complaint but on the basis of his overall working at particular Station for which admittedly preliminary inquiry was also held. I have carefully gone through the Judgments on which the respondent have relied upon such as Judgment in W.P. 1277/2016 passed by the Hon'ble High Court of Judicature of Bombay at Bench Aurangabad on 5/5/2016 in the case of Sanjay Gulabrao Deshmukh vs. State & Ors., O.A.455/2015 passed by Maharashtra Administrative Tribunal, Bench at Auraganbad on 3/11/2015 in case of Omprakash Dhondiram Mane vs. The Director General of Police, Maharashtra State, Mumbai & ors., and the Review Petition in the same case bearing no.10/2015 on 14/12/2015. I have also gone through



[Signature]

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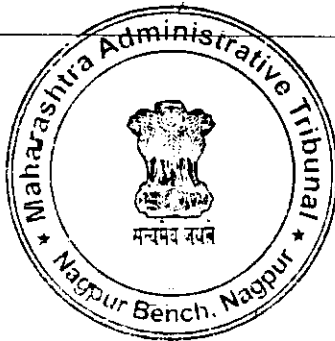
Judgment in W.P. no.14200/2016 passed by the Hon'ble High Court of Judicature at Bombay on 20/1/2017 in the case of State of Maharashtra Vs. S.K. Kasbse & Ors.

12. Perusal of the documents on record so also the original Minutes of meeting of the Police Establishment Board no.2 clearly shows that the Police Establishment Board has considered all the pros and cons of the case against the applicant and it came to the conclusion that the recommendation for transfer of the applicant out of district was in the public interest and therefore in the such circumstances it will not be in the interest of administration as well as in the interest of justice to interfere in the transfer of the applicant. Hence, the following order :-

ORDER

The O.A. stands dismissed with no order as to costs.

dnk.



- (a) Sr. No of the Application 548/17
 (b) Name of Applicant/Respondent
 Respondent No. 3
 (c) Fees Charge Argent/Ordinary 10/-
 (d) Total pages 09
 (e) Copy Applied on 11/10/2017
 (f) Copy Ready on 12/10/2017
 (g) Copy Delivered on 16/10/2017

Asstt/Dy. Registrar
 Assistant Registrar/ Research Officer
 Maharashtra Administrative Tribunal
 Nagpur