

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

964 WRIT PETITION NO.782 OF 2015
WITH
CIVIL APPLICATION NO.5150 OF 2015
...

BHARAT DNYANOBA RAUT
VERSUS
STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Shri Jadhavar Santosh S.

CORAM : **S.S.SHINDE &**
P.R.BORA, JJ.

DATE : **8th May, 2015.**

PER COURT :

1) Heard. The learned Counsel appearing for the petitioner submits that in the guidelines issued by the Election Commission of India, the term 'inspector' does not include 'Assistant Police Inspector'. It is submitted that the Police Inspector is included in "A" grade while Assistant Police Inspector is included in "B" grade. In support of this contention, learned Counsel appearing for the petitioner, has tendered across the Bar a copy of Government Resolution dated 26th February, 2004 issued by Under Secretary, Government of Maharashtra, Home Department, Mumbai.

. It is further submitted that the officers, who are not responsible for deployment for police force, cannot be transferred. At the

material time, the petitioner was a member of Ante-dacoity and ante-terrorists squad and, therefore, he ought not to have been transferred from Beed to Aurangabad. He further submits that the findings recorded by the Maharashtra Administrative Tribunal (for short, the Tribunal), are without any documents on record and only on the submissions of the Presenting Officer that Police Inspector is included in Group-B. In fact, Police Inspector is included in Group-A and Assistant Police Inspector is included in Group-B. According to the learned Counsel for the petitioner, the petition deserves to be allowed.

2) On the other hand, learned AGP, appearing for State, relying on the affidavit in reply, submits that the petitioner is serving at Beed from the year 2007. The Tribunal has not only considered the Guidelines, but it has also considered the Ordinance issued by the Home Department in the year 2014 and to that effect there is discussion in para 21 of the impugned judgment of the Tribunal. The learned AGP, therefore, relying upon the affidavit in reply and the reasons assigned by the Tribunal in its order, submits that the petition deserves to be dismissed and same may be dismissed.

3) We have given careful consideration to the submissions of learned Counsel appearing for the parties. With their able assistance, perused the pleadings in the petition, annexures thereof and reasons assigned by the Tribunal.

4) In the first place, so far as transfer of the petitioner is concerned, it is an incident of service and no employee has vested right to remain at a particular place. It is also not in dispute that the petitioner is at Beed, may be in different capacity, from the year 2007 till date. It is also not in dispute that the Tribunal's order was stayed during pendency of the Original Application filed by the petitioner and by virtue of the interim order, the petitioner was continued from April 2014 till date at Beed.

5) So far as the contention of the counsel for the petitioner that the term 'inspector' will not include 'Assistant Inspector', cannot be accepted. In the said Guidelines, the word 'inspector' is mentioned and, therefore, reasonable inference drawn by the Tribunal, cannot be said to be perverse. Apart from that, the Tribunal has considered the other provisions and also the Ordinance issued in the year 2014 in para 24 of the impugned judgment. The view taken by the Tribunal cannot be said to be perverse or

contrary to the record. In that view of the matter, we do not think it appropriate to interfere in the impugned judgment and order of the Tribunal. Hence, the petition stands rejected. Consequently, the Civil Application also stands disposed of.

6) At this stage, the learned Counsel for the petitioner, submits that the petitioner's request for transfer may be considered in general transfers for transferring him out of Beed. We do not express any opinion on the said aspect and petitioner will be free to approach the concerned respondent/authority in this behalf and the respondent/authority, will be free to consider such request of the petitioner in accordance with law.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

bdv/