

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 645 OF 2015

WITH

WRIT PETITION NO. 646 OF 2015

Siddharth Ashokrao Tambe

..

Petitioner

Versus

The State of Maharashtra & Ors.

..

Respondents

Mr. M. S. Karnik i/b Vivek V. Salunkhe, Advocate for the petitioner in both the matters.

Mr. C. P. Yadav, AGP for the respondent – State in both the matters.

Mr. C. T. Chandratre, Advocate for R. No. 2 in both the matters.

CORAM:-ANOOP V. MOHTA &

V. L. ACHLIYA, JJ.

DATED : -04/08/2015

ORDER:

The learned counsel appearing for the petitioner, on instructions, submits that though petition is admitted on 9th February, 2015, the petitioner seeks permission to withdraw both the writ petitions, in view of the subsequent development as he is satisfied with the present posting. However, requested to set aside the order imposing cost .

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We are inclined to dispose of both the writ petitions as

respondents have no objection to allow the petitioner to withdraw the petitions.

2 So far as imposing of costs is concerned, same appears to be based upon the observation made in paragraph 47 of the order. We are inclined to set aside the same as it appears that petitioner was transferred on his request, which was considered by the State. The ultimate decision was taken by the State Government to transfer. Therefore, same cannot be the reason to saddle cost upon the petitioner.

3 So far as action of State is concerned, in our view, it is the prerogative and right of State to transfer the employees, for administrative reasons or exigency. The State is empowered to make transfer in appropriate case even before the period normal tenure of posting is completed or to make mid term transfer. Therefore, it cannot be said that action on the part of State was beyond scope and/or jurisdiction. The challenge of respondents, as accepted, that alone cannot be the reason to impose such costs.

4 Therefore, in the facts and circumstances of the case as well as interest of justice, we are of the view that such imposition of

costs on petitioner, as well as, on the State, required to be quashed and set aside. The order is accordingly modified to the extent of setting aside clause (d) of impugned order dated 12/01/2015.

5 Accordingly the petitions are disposed of as withdrawn with modification as stated above.

6 Accordingly, Rule discharged in above terms.

(V. L. ACHLIYA, J.)

(ANOOP V. MOHTA, J.)

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