

FARAD CONTINUATION SHEET NO.  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR.

**WRIT PETITION NO. 5315 OF 2015**

Sanjaykumar S/o Fatehsingh Gadge

-vs-

The State of Maharashtra, Mumbai, thr.its Secretary/Section Officer and others

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders.

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Mrs. P. Tiwari, counsel for the petitioner.  
Mr. N.S.Khubalkar, AGP for the respondents.

**CORAM : SMT. VASANTI A. NAIK &**  
**A. I. S. CHEEMA, JJ.**

**DATE : 13.10.2015.**

By this petition, the petitioner impugns the order of the Maharashtra Administrative Tribunal, dated 10/09/2015 rejecting the application filed by the petitioner for grant of interim relief in the original application filed by the petitioner against the order of transfer of the petitioner from Akola to Chandrapur.

The petitioner was working as an Assistant Public Prosecutor at Akola for the past four years and by the order dated 31/08/2015, the petitioner was transferred to Chandrapur. The order of transfer was challenged by the petitioner before the Maharashtra Administrative Tribunal on the ground that the petitioner was suffering from disability to the extent of 40 per cent and the son of the petitioner was taking education in the 12<sup>th</sup> Standard. The petitioner also raised a ground that the petitioner had already worked in a tribal area and hence, he could not have been transferred to a tribal area again.

The Maharashtra Administrative Tribunal by the order dated 10/09/2015 rejected the application filed by the petitioner for grant of interim relief staying the order of transfer.

On hearing the learned counsel for the parties and on a perusal of the impugned order as also the affidavit-in-reply filed on behalf of the respondent No.2, it appears that there is no reason for interfering with the order of the Tribunal, in exercise of the writ jurisdiction. Though the petitioner's son is taking education in the 12<sup>th</sup> Standard, the petitioner's son is stationed at Amravati and not at Akola where the petitioner was posted before his transfer was effected. It is stated in the affidavit-in-reply filed on behalf of the respondent No.2 that the family members of the petitioner are residing at Amravati since past several years. Though the petitioner was transferred to Akola four years earlier, the petitioner did not shift his family to Akola and the family of the petitioner including his son was stationed at Amravati where his son is taking education. We find on hearing the learned Assistant Government Pleader that the petitioner had joined as an Assistant Public Prosecutor at Achalpur in Amravati District in the year 2002 and the petitioner served for about nine years in Amravati District. It is stated that the petitioner did not reside at Dharni (tribal area) where he was posted, but resided at Warud (non tribal area) in District Amravati, which is his native place and travelled every day to Dharni. Since the petitioner has averred in the writ petition that the service record of the petitioner is unblemished, it is pointed out on behalf of the respondent No.2 that the service record of the petitioner is poor and he is also involved in criminal cases. To deny the averment made by the petitioner in regard to the unblemished service record, it is pointed out that several complaints have been received in regard to the arrogant behaviour of the petitioner and his negligence in discharge of the duties. It is stated that the petitioner has faced criminal prosecution for the offence punishable under Section 138 of Negotiable Instruments Act. It is stated that in the year 2007 a report was made against the petitioner for the offences punishable under Sections 323, 294 and 506 of the Penal Code. It is, however, stated on behalf of the

respondents by the learned Assistant Government Pleader that the petitioner has not been transferred in pursuance of the aforesaid incidents and the transfer of the petitioner is effected only on administrative ground. It is stated that the aforesaid facts have been stated on behalf of the respondents only to deny the averment made on behalf of the petitioner that the petitioner has an unblemished service record. Certain other allegations have also been made in the affidavit-in-reply to point out that the petitioner did not perform his duties properly and minor punishments were passed against the petitioner. It appears that since the petitioner was due for transfer after having worked at Akola for more than three years, the petitioner was transferred to Chandrapur, where there is a dearth of Assistant Public Prosecutors. It appears that though there are 23 Courts of Judicial Magistrate First Class at Chandrapur and though the sanctioned strength of Assistant Public Prosecutors at Chandrapur is 13, only 9 Assistant Public Prosecutors are working in Chandrapur. In the circumstances of the case, we find that the petitioner cannot effectively challenge the transfer order and the Maharashtra Administrative Tribunal rightly rejected the prayer made by the petitioner for grant of interim relief. The case of the petitioner that the petitioner should be stationed at Akola because the son of the petitioner is taking education in the 12<sup>th</sup> Standard appears to be incorrect, as the son of the petitioner and the petitioner are posted at two different stations i.e. Amravati and Akola respectively.

Since the order of the Tribunal is just and proper, we dismiss the writ petition with no order as to costs.

**JUDGE****JUDGE**