

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

WRIT PETITION NO.5451/2015

Rajesh s/o Nilkanth Wadpalliwar

-Vs-

The Zilla Parishad, Gadchiroli, through its Chief Executive Officer and others

WITH

WRIT PETITION NO.5452/2015

Waman s/o Pandurang Kshirsagar

-Vs-

The Zilla Parishad, Gadchiroli, through its Chief Executive Officer and others

WITH

WRIT PETITION NO.5453/2015

Dushyant s/o Dewaji Ture

-Vs-

The Zilla Parishad, Gadchiroli, through its Chief Executive Officer and others

WRIT PETITION NO.5454/2015

Yeleshwar s/o Ankayyaji Komrewar

-Vs-

The Zilla Parishad, Gadchiroli, through its Chief Executive Officer and others

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

Court's or Judge's Orders.

Smt. Neeta Jog, Advocate for petitioner in all petitions
Mrs. B.H. Dangre, GP for respondent no.3 – State in W.P.No.5451/15
Shri A.S. Fulzele, AGP for respondent no.3 – State in W.P.No.5452/15
Shri N.S. Khubalkar, AGP for respondent no.3-State in W.P.No.5453/15
Shri D.B. Patel, AGP for respondent no.3-State in W.P.No.5454/15

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

DATE : 29.09.2015.

Heard.

The learned Government Pleader raises a preliminary
objection to the tenability of the writ petition on the ground that

the petitioner can avail the alternate remedy of filing an application/representation before the Divisional Commissioner against the impugned order.

Mrs.Jog, the learned counsel for the petitioner, states that the Divisional Commissioner may not interfere with the transfer order, as it appears from a reading of the transfer order dated 12/09/2015 that the same is passed only in pursuance of the directions issued by this Court in Writ Petition No.2783 of 2015, wherein the petitioner was not a party. It is stated that the order in the writ petition, to which the petitioner was not a party, cannot bind the petitioner and hence, the petitioner's challenge to the impugned order would be required to be considered by the Divisional Commissioner on merits. It is stated that the respondent –Zilla Parishad has not followed the proper procedure before transferring the petitioner.

The apprehension expressed by the learned Counsel for the petitioner is not well founded. If the petitioner files an appeal/representation before the Divisional Commissioner against the impugned order of transfer, the Divisional Commissioner would be duty bound to consider the appeal on merits. The Divisional Commissioner will have to consider whether in the circumstances, the petitioner was in fact liable to be transferred in pursuance of the order of the High Court to which the petitioner was not a party and whether the transfer of the petitioner could be justified.

With the aforesaid observations, we permit the petitioner to avail the alternate remedy. The Divisional Commissioner shall consider the application for grant of interim relief as early as possible and positively within a period of one week. The writ petition is disposed of.

Order accordingly. No costs.

JUDGE

JUDGE