

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

902 WRIT PETITION NO.115 OF 2016

ABHAY GINYANDEO SANAP
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHERS

...

Advocate for Petitioners : Mr. Sanap R.D.
Mr. Shrihari Ane, Advocate General for State of
Maharashtra; along with
Mr. AB Girase, GP and SB Yawalkar, AGP for Resp.
No.1/State;
Mr. Mukul Kulkarni, Advocate for Respondents : No.2.

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

DATE : 12th February, 2016.

PER COURT :

1) Heard learned Counsel for the respective parties. Learned Advocate General, appearing for the Respondent/State, raises a preliminary objection about directly filing the petition and its maintainability under Article 226 of the Constitution of India, without resorting to remedy available before the Maharashtra Administrative Tribunal (for short, the Tribunal).

2) Responding to the preliminary objection so raised by the learned Advocate General, the learned Counsel for the petitioner submitted that since the division Bench of the Maharashtra Administrative

Tribunal (for short, the MAT) was not available at the relevant time at Aurangabad, the petitioner was constrained to approach this court. The learned counsel brought to our notice the averments made in this regard in para 11 of the petition. The learned counsel further submitted that the petitioner is willing to approach the MAT and, therefore, prayed for passing further orders directing transfer of the petition to the MAT. Learned Counsel further submitted that the interim protection granted by this Court may be continued at least for the next period of four weeks so that in the meanwhile, the petitioner may approach the Tribunal and seek necessary orders.

3) In the light of submissions made across the Bar, this petition shall stand transferred to the Tribunal, at Aurangabad. Needless to observe that, the registry of the Tribunal shall re-number the said petition, by treating it as Original Application filed before the Tribunal.

4) Registry of this Court shall ensure that this petition is transferred to the Tribunal by 15th February, 2016.

5) Ad interim relief granted by this Court on

15th January, 2016 shall remain in force for further four weeks.

6) We have come across while hearing few petitions that many a times it happens that the Division Bench of the Tribunal at Aurangabad is not available as a result of which, the petitions are filed directly before the High court though remedy is available before the M.A.T. Since the learned Advocate General is present in the matter and has thus become aware of the problem faced by the litigants in Aurangabad region because of non-availability of the Bench of M.A.T. on regular basis, we expect that the learned Advocate General will show his concern in the present issue and would impress upon the Government to take necessary steps for prompt appointments of the Administrative Member on the said Tribunal willing to work at Aurangabad region so that the Division bench of the Tribunal would always be available at Aurangabad for hearing the matters.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

bdv/