

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3894 OF 2016**

The State of Maharashtra and ors. .. Petitioners.
vs.
Jivajeerao J. Jadhav and anr. .. Respondents.

Mr. C.P. Yadav, AGP for the petitioner/State
Mr. Vipin Kamdi for the respondent no.1

**CORAM: D.H. WAGHELA, C.J. AND
M.S.SONAK, J.
DATE : 04 APRIL 2016.**

P.C.:

1] The challenge in this petition is to the interim order dated 24 February 2016 made by the Maharashtra Administrative Tribunal (MAT).

2] Mr. C.P. Yadav, learned AGP for the petitioners-State, contended that the posting of respondent no.1 from one police station to armed police branch in Mumbai city itself, does not constitute a “*transfer*”, as has been held by this Court in Writ Petition No. 5001 of 2016. Mr. Yadav submitted that if such posting does not constitute “*transfer*” , then, there was no reason to consider the further issue as to whether the Police Establishment Board had jurisdiction to issue the order, which was impugned before the MAT or not. For these reasons, Mr. Yadav submitted that the impugned order may be interfered with.

3] The order in Writ Petition No. 5001 of 2016, upon which reliance was placed by Mr. Yadav, is an interim order. Besides, the interim order was made in the context of un-amended provisions of the Maharashtra Police Act 1951 (said Act). Admittedly, with effect from 1 February 2014, the said Act has been amended and Section 2(6A) defines the expression “*General Transfer*” in the following terms:

““General Transfer” means posting of a Police Personnel in the Police Force from one post, office or Department to another post, office or Department in the month of April and May of every year, [after completion of normal tenure as mentioned in sub-section (1) of section 22N].”

4] In view of the aforesaid statutory definition, we detect no perversity in the *prima-facie* view taken by the MAT that the posting of respondent no.1 from one police station to another also constitutes “*transfer*”. The respondent no.1 was admittedly holding the post of Assistant Commissioner of Police. The provisions contained in Section 22N of said Act suggest that the Police Establishment Board may not be competent authority to issue transfer orders in respect of Assistant Commissioner of Police.

5] For the aforesaid reasons, we are satisfied that this is not a fit case to interfere in the exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. In any case, we are informed that the matter is posted for final disposal hearing before the MAT and final decision is therefore, expected shortly.

6] It is clarified that the aforesaid observations are only *prima-facie* and the MAT need not be influenced by such observations at the stage of final disposal of the original application.

7] This petition is therefore, dismissed. There shall be no order as to costs.

(CHIEF JUSTICE)

(M.S.SONAK, J.)