

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 8568 OF 2016

Shivaji s/o. Manikrao Rathod **Petitioner.**

Versus

Dnyaneshwar Mahadeo Mali and ors. **Respondents.**

WITH

WRIT PETITION NO. 8569 OF 2016

Vijay s/o. Wamanrao Kamble **Petitioner.**

Versus

Dnyaneshwar Mahadeo Mali and ors. **Respondents.**

WITH

WRIT PETITION NO. 8581 OF 2016

Smt. Poonam Kashinath Balule **Petitioner.**

Versus

Dnyaneshwar Mahadeo Mali and ors. **Respondents.**

WITH

WRIT PETITION NO. 8584 OF 2016

Shaikh Shabbir Mohioddin Sahab **Petitioner.**

Versus

Dnyaneshwar Mahadeo Mali and ors. **Respondents.**

Mr.S.G. Rudrawar & Mr. V.D. Gunale, Advocate for
petitioners.

Mr. R.K. Ashtekar, Advocate for respondent Nos.1 & 2.

Mr. A.S. Shinde, A.G.P. for respondent Nos. 3 to 5.

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**
DATED : March 7, 2017.

ORDER : [PER T.V. NALAWADE, J.]

All the petitions are filed to challenge the decisions given by Maharashtra Administrative Tribunal in proceedings filed against petitioners and Government to challenge the transfers of the petitioners from other districts to Latur district in Revenue Department. Both the sides are heard.

2. It appears that the petitioners had applied for their transfers to Latur district in Revenue Department on different grounds. There is power with the Government to make such transfers. For such transfers, Government Resolution (G.R.) dated 3.6.2011 is issued by the Government and the conditions laid down in the G.R. need to be fulfilled for making such transfers. One condition is that the head of the office of the district where employee is working and the head of the office where the employee

is to be transferred need to give no objection for such transfer. Other condition is that such transfer cannot be made unless and until there is clear vacancy for absorbing such employee in the district like Latur.

3. The record and the submissions show that District Collector, Latur had not given no objection to the transfers and on the contrary, he had informed that there was no clear vacancy and further, in view of the interest of the employees from the cadre of Clerk to get promotion to the post of Awwal Karkun, such absorption was not possible. It was informed that if the posts become vacant, from the basic cadre like clerical post, the employees who are entitled to get promotions as per the service conditions, are entitled to get the promotions and if the transfers of the persons like present petitioners is allowed from other district, the employees working in the Latur district will loose the chance of getting promotions to the post of Awwal Karkun. In spite of giving of such objection by the Collector, the orders

of transfers came to made. The orders show that as a special case the Government made the orders of transfers. There is record to show that there was intervention of political persons and they had recommended the transfers.

4. The orders made by M.A.T. show that the condition of availability of vacant post is mainly considered. The circumstance that the Hon'ble Minister at whose instance the applications for such transfers were allowed as special cases, did not give the reason for rejection of the objections taken by the Collector is also there. The proceedings before M.A.T. were filed by the employees from Latur district as they were feeling aggrieved due to the transfers and their promotional chances were being affected. The learned counsel for petitioners submitted that these persons also got promotions though subsequently and so, it cannot be said that the chance to get promotion is affected due to such transfers. The learned counsel further submitted that though subsequently the posts become available and so, it was not necessary for M.A.T. to intervene in

the matters and set aside the orders made by the Government.

5. The record shows that the petitioners were given special treatment for the reasons best known to the concerned department of the Government. The interest of the employees who were already working in Latur district were not at all considered and the procedure which is laid down by the Government in aforesaid G.R. was also not considered. Such arbitrariness is not expected in Government Departments as that creates impression in the minds of the persons, who cannot get such orders that persons like petitioners can do anything. There needs to be fairness in the administration and in the orders made in favour of petitioners such fairness is lacking. This Court holds that in view of the aforesaid circumstances, it is not possible to interfere in the decisions given against the petitioners by M.A.T.

6. In the result, all the petitions stand

dismissed. The learned counsel for petitioners prayed for stay to the orders made by M.A.T. It is refused in view of peculiar circumstances of the case.

[SANGITRAO S. PATIL, J.] [T.V. NALAWADE, J.]

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