

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 91 OF 2017

Mr. Santosh Mishra .. Petitioner

V/s.

The State of Maharashtra and ors. .. Respondents.

Ms Hardeep Kaur i/b Charanjeet Chanderpal for the Petitioner.

Mr. Vikas Mali, AGP for the Respondents – State.

**CORAM: DR. MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.**

DATE : 10 NOVEMBER 2017.

P.C.

1] The petitioner, in this petition applies for the following reliefs:

- a] Direction the respondents to frame rules as regards election Transfers or to make appropriate rules to the existing rules;
- b] For a direction to provide some reasoned classifications in the matter of transfer of police officials, at the time of election;
- c] To question retention of certain police officials and the transfer of certain police officials'
- d] Seeks a direction that general transfers must not only be published but must enumerate the reasons for transfer and this should be made available to the public.

2] This petition was instituted in the year 2014. The reliefs, in relation to any particular officer, have, by now become infructuous. In any case, the reliefs of such nature, cannot be considered in a public interest litigation.

3] Besides, we refer to paragraphs 15,16 and 17 of the petition, which read as follows:

“15. It may be noted that Ex G and Ex H are not Election Transfers, other lists relating to Transfer namely Ex A and Ex F are relating to Election Transfers. The other Exhibit s - G and H are only attached to show that there is arbitrariness.

*16. The Transfer List of Deputy Superintendent and Assistant Commissioners is more transparent than other transfer lists. this list is hereto annexed at **Exhibit I** of the petition and is relating to Election Transfers only. Exhibit I to this petition spells out the category and section and criteria for transfer and the other lists A,F, G anf H do not speak about any basis for transfer. More particularly reference may be drawn to Exhibit A and F more particularly as regards the issue of election transfers raised in this petition. The lists at Ex A, F, G, H may therefore be regarded as arbitrary.*

17. It may here be noted that the case of Vijay Kamble – Thane Police Commissioner and Ahmed Javed – Director General Home Guard, were due for promotion for a long time as they held posts of the equivalent category of Additional Director General. Both these officers were serving for a long time but their promotions were at the mercy of the State due to “no proper rules”. Further the untimely transfer of Commissioner of Police – Mr. Arup Patnaik is also one such example of officers being at the mercy of the State. Further, with respect s it may be stated that officers like Ravindra Shisve – Deputy Commissioner of police Zone 1, who may be honest but has a number of complaints against of serious nature, and requires serious police training, has not been

transferred. Deputy Commissioner of Police – Now Zone 9 – Cherring Dorje was transferred twice in the last two years. Cases of serious nature can also be pointed out at various police stations. The examples in this petition are to say the least.”

4] From the averments in the aforesaid paragraphs, an impression is created that the petitioner is trying to espouse the cause of certain specific police officials, who according to the petitioner, were denied promotions for a long time. This is obviously not permissible. Moreso, this is not permissible by institution of public interest litigation. If, the concerned officers, had any grievance in relation to their non-promotion, it was for such officers, to institute appropriate proceedings before the appropriate forum. Normally, no public interest litigations are to be entertained in service matters.

5] For all the aforesaid reasons, we dismiss this public interest litigation. There shall however, be no order as to costs.

(CHIEF JUSTICE)

(M.S. SONAK, J.)