

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

912 WRIT PETITION NO. 8708 OF 2018

PANDURANG PRABHAKARRAO LOKHANDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. Thombre S.S.
AGP for Respondents 1 to 3 : Mr. S.G.Karlekar

**CORAM : S.V.GANGAPURWALA
AND
SUNIL K.KOTWAL, JJ.**

DATE : JULY 31, 2018

O R D E R :

The present petition is filed against the refusal to grant interim order.

2. Mr. Thombare, learned counsel for the petitioner submits that on 9.3.2018 the petitioner was transferred to Ambajogai Tahsil office as the godown keeper. Abruptly on 18.7.2018 the impugned order is issued transferring the petitioner. According to the

learned counsel, the impugned order is mid term or mid tenure transfer. Same is not in consonance with the provisions of Section 4 of the Maharashtra Government Servants Regulation of Transfer Act, 2005. The procedure as contemplated under Section 4 of the said Act is also not followed. In case it is a mid tenure or mid term transfer, then the same has to be with the sanction of the superior authority. In the present case, no such sanction has been obtained. Learned counsel further submits that even reasons are not recorded for transferring the petitioner during mid term or mid tenure. In such a case, the impugned order stands vitiated. Learned counsel relies on the judgment of Division Bench of this Court in the case of **Ramakant Baburao Kendre vs State of Maharashtra and another**, reported in **2012 (1) Mh.L.J. 951**.

3. Learned counsel further submits that the reference is given to the letter, dated 8.6.2017 in the impugned order passed on 18.7.2018. Petitioner

was holding charge of Godown Keeper, Ambajogai. The petitioner was transferred under the order, dated 9.3.2018 and had joined only on 15.3.2018. As such, he is not concerned with any of the activities that had been undertaken prior to his joining.

4. We have heard learned AGP.

5. The Tribunal has refused to grant interim relief in Original Application filed by the petitioner against the impugned order and has now placed the matter on 5.9.2018 for final disposal.

6. It has been observed that the charge of the post of applicant is kept with another employee on the ground that there are several complaints against the present petitioner. The letter, dated 19.7.2018 issued by the Tahsildar records the said reasons.

7. The petitioner has not been given any other posting pursuant to the impugned order. It has been prima facie observed by the Tribunal that asking charge to be given to another candidate is nothing but an internal arrangement and is not mid term or mid tenure transfer. Prima facie, the observations do not appear to be against the record. The judgment of the Division Bench in the case of **Ramakant Baburao Kendre** (supra) would be relevant if it is a case of mid term or mid tenure transfer without adhering to the procedure as laid down under Section 4 of the Maharashtra Government Servants Regulation of Transfer Act, 2005. Prima facie, because of the complaints against the petitioner charge of the said post is directed to be given to another employee and no further orders of transfers are passed. Even otherwise, the application is kept for disposal before the Tribunal. In view of that, we are not inclined to exercise our jurisdiction.

8. Writ Petition is disposed of. No costs. Needless to state, the observations made are prima facie in nature and the Tribunal would decide the matter on its own merits.

[SUNIL K.KOTWAL, J.] [S.V.GANGAPURWALA, J.]

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