

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

WRIT PETITION NO. 8417 OF 2017

The Additional Chief Secretary, Home Department & Ors.	...Petitioners
Versus	
Ravindra Baliram Badgujar	...Respondent

Mr. C. P. Yadav – AGP for Petitioners
Mr. Sandeep Shinde i/b. Ergo Juris for Respondent.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &
M. S. SONAK, J.
DATE : 02 JULY 2018**

P.C. :

- 1] Heard the learned counsel for the parties.

- 2] Mr. Shinde, the learned counsel for the respondent submits that the reliefs in the present petition have been rendered infructuous on account of subsequent development. He submits that the Maharashtra Administrative Tribunal (MAT) by the impugned judgment and order dated 9th August 2016 had set aside order dated 24th May 2016 transferring the respondent from Palghar to Nagpur. The order was complied with but consequent upon the respondent completing his normal tenure at Palghar, the respondent, has now been transferred to Mumbai City with

effect from 2nd June 2018. Mr. Shinde submits that in view of this subsequent development, the reliefs applied for by the petitioners-State in the present petition do not survive and in any case, have been rendered infructuous.

3] Mr. C. P. Yadav, the learned AGP does not factually dispute the aforesaid developments. However, he states that the MAT, in the impugned judgment and order, has ruled that the transfer order dated 24th May 2016 had not been made by the appropriate authority. Mr. Yadav submits that if this view is allowed to prevail, there will be complications in the matters of issuance of transfer orders in future. He submits that the view taken by the MAT is not consistent with the rulings of this Court in **writ petition no. 14200 of 2016 (The State of Maharashtra & Anr. vs. Siddharth K. Kasbe & Anr.) decided on 20th January 2017** and **writ petition no. 1277 of 2016 Sanjay s/o. Gulabrao Deshmukh vs. The State of Maharashtra & Ors.) decided on 5th May 2016**. He therefore submits that this Court should admit this petition and clarify the position.

4] According to us, since, the main relief in this petition

has been rendered infructuous, it will not be appropriate to simply admit the present petition and undertake an exercise, which will be only academic in nature. However, we propose to make some order which will allay the apprehensions now expressed by the learned AGP.

5] Therefore, although we are not entertaining the present petition, we clarify that the issue as regards the competent authority to issue transfer orders is left open for adjudication in an appropriate case which might arise in future. Therefore, though we are neither approving nor disapproving the view taken by the MAT on the issue of competent authority. We make it clear that since we are leaving this issue open, the MAT's judgment and order dated 9th August 2016 may not be treated as precedent.

6] With the aforesaid clarifications and observations, this petition is disposed of.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)