

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

96 WRIT PETITION NO.8679 OF 2019

SHAIKH MAHAMMAD SHAMSODDIN

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER..RESPONDENTS

...

Mr. Amar D. Soman, Advocate for the Petitioner.

Mr. V. M. Kagne, AGP for Respondents-State.

Mr. Manish N. Navandar, Advocate for Respondent No.2.

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**CORAM : S. V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.**

DATED : 10th DECEMBER, 2019.

PER COURT:-

1. Mr. Soman, learned counsel submits that the petitioner is due to retire within six months. There is not a single criminal case pending against the petitioner. No departmental enquiry is initiated. The petitioner is transferred mid-term and mid-tenure. The same is not permissible. The transfer is against the provisions of Sections 3 and 4 of the Maharashtra Government Servants Regulations of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005, so also the petitioner is entitled for extension of tenure, if the period of retirement is less than one year.

2. Mr. Navandar, learned counsel submits that there are various complaints filed against the petitioner. One lady namely Sow. Khobe Bharat

Shivajirao had filed complaint with respondents to the effect that the petitioner without her permission has retained Rs.1000/- from her medical bills. There are various police complaints registered against the petitioner. For these reasons the petitioner is transferred.

3. We asked Mr. Navandar, learned counsel for respondents as to whether any departmental enquiry is pending against the petitioner, the answer was in negative.

4. It appears that, the petitioner is due to retire after six months. The petitioner has relied on Section 5 of the Maharashtra Government Servants Regulations of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005.

5. The transfer it appears is also mid-term and mid-tenure. For that, special reasons have to be assigned. The same does not appear to have been given in the transfer order.

6. For all the aforesaid reasons, the order of transfer is quashed and set aside.

7. Writ Petition is accordingly disposed of. No costs.

(AVINASH G. GHAROTE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE