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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 6 OF 2019

Laxman Dharmaji Bhosale
Chairman of Samajik Jan Andolan
Parishad, Maharashtra State. .. Petitioner

Vs.

The State of Maharashtra and ors. .. Respondents

Mr. Mihir Desai, Senior Advocate i/by Mr. Prashant Darandale for
petitioner.

Ms. N. M. Mehra, AGP for respondent nos.1 to 3.

CORAM: NARESH H. PATIL, CJ. &
N. M. JAMDAR, J.

MARCH 08, 2019.

P.C.

1. The petitioner, a resident of Pune, has filed this
petition purported to be in public interest, questioning the transfer
of respondent no.5 – Senior Police Inspector.

2. The petitioner states that he has formed an

Organization to render social service. He has moved this court challenging the order of transfer of respondent no.5 – Senior Police Inspector, Kondhwa Police Station, Pune to Special Branch, Pune City, Pune Police Commissionerate on 17/10/2018. The petitioner has narrated various grounds and circumstances, which, according to the petitioner, led to the transfer of respondent no.5. He has attributed motive, bias and malafides on the part of the State authority to transfer the respondent no. 5.

2. We have heard Mr. Mihir Desai, the learned Senior Counsel for the petitioner. The learned Senior Counsel has relied upon the decision of the Apex Court in the case of *Prakash Singh vs. Union of India and ors*¹. Relying on the said decision, Mr. Desai contends that when the Supreme Court has laid down a mandate that there shall not be mid-term transfer of police officer, the transfer, such as of respondent no.5, will have to be set aside. The respondent no.5 continues in the employment of the State.

3. We have perused the decision of the Apex Court in the case of *Prakash Singh* (Supra). It is equally settled by the decision of the Apex Court in the case of *Dr. Duryodhan Sahu and ors. vs. V. Jitendra Kumar Mishra and ors.*² and followed in various

¹ (2006) 8 SCC 1

² AIR 1999 SC 114

other subsequent judgments, that the court should not entertain public interest litigation in respect of the service matters, barring certain exception, such as a writ of quo-warranto. There is no reason at all as to why the respondent no.5, a Police Inspector, cannot challenge his transfer, taking the very same grounds which the petitioner has taken, if they are genuine.

4. In view of this position, we are not inclined to interfere in our extra ordinary writ jurisdiction. We refrain from making any further comments on merits of the order of transfer, in case the respondent no.5 chooses to challenge his transfer order, which challenge would be considered on its own merits.

4. The Public Interest Petition is accordingly dismissed.

N. M. JAMDAR, J.

CHIEF JUSTICE