

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO.7864 OF 2022

ASHA PRAKASH SEJUL AND OTHERS
VERSUS
KANTILAL KONDIRAM NAGLOD AND OTHERS

...
Advocate for Petitioners : Mr. Solanke Shikrashna B.
AGP for the respondent – State : Mrs. M.A. Deshpande
Advocate for the respondent no. 1 : Mr. Jiwan J. Patil
...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**
DATE : 28 JULY 2022

PC :

Heard.

2. Issue notice.
3. Mr. Patil waives service for the respondent no. 1.
4. The petitioners are aggrieved by the order passed by Maharashtra Administrative Tribunal in the original application moved by the respondent no. 1 seeking inter-division transfer from Nasik division to Aurangabad division.
5. Petitioners made an attempt to intervene by moving an application but the application has been rejected by the order under challenge.
6. We have heard both sides finally.

7. It is necessary to note that we have not been called upon to decide the dispute on the merits. We are only concerned with the issue as to whether the petitioners can be allowed to intervene at the hearing of the original application.

8. Learned advocate for the petitioners would submit that if the original application is allowed, the transfer of the respondent no. 1 would block one promotional seat adversely affecting their interest. They being interested in keeping the seat vacant, need to be heard by the Tribunal.

9. Per contra, learned advocate Mr. Patil for the respondent no. 1 would submit that the petitioners are not necessary parties. They are still to be promoted. They may have a contingent interest. However, opportunity of being heard to them is not necessary to be extended since it is only a matter of transfer of the respondent no. 1 based on the Government resolutions. If those are applicable to him, he would be entitled to get transferred and not otherwise. Presence of petitioners at the hearing of the original application is likely to delay the hearing and would make the issue complex.

10. Certainly, if the original application is allowed, the respondent no. 1 would be transferred thereby blocking one seat which otherwise would have been available to one of the petitioners as the promotional avenue. True it is that as of now one cannot predicate which of these petitioners would fill that seat since there are number of

petitioners, but the fact remains that the proposed transfer would block one such seat which otherwise would be available for the petitioners. In that sense, the petitioners do have an interest in the decision likely to be rendered in the original application.

11. The Tribunal seems to have overlooked this aspect and has rejected the application making unsustainable observation about the dispute being akin to a public interest.

12. In this respect, it would be fruitful to rely upon the decision of the Apex Court in the matter of *Sanjay Prakash and others Vs. Union of India (UOI) and others; (2021) 9 SCC 79*.

13. In the light of above, we allow the petition.

14. The order is quashed and set aside.

15. Petitioners shall be permitted to participate at the hearing of the original application, however, with a rider that they shall not seek any adjournment at any stage of the proceeding.

16. The observations made hereinabove are confined to the decision of the writ petition and the Tribunal shall not feel influenced by those while deciding the original application.

[SANDEEP V. MARNE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/