

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10015 OF 2023

Rajendra S/O Marutirao Najan ... Petitioner.

V/S.
The State Of Maharashtra Thr
Additional Chief Secretary
And Anr ... Respondents.

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Mr.Satish B.Talekar a/w. Ms.Kalyani Mangare i/b. Talekar &
Associates for the Petitioner.
Mr.B.V.Samant, AGP for the State/Respondents No.1.
Mr.Sanjay P. Shinde for Respondents No.2.

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**CORAM : NITIN JAMDAR, AND
MANJUSHA DESHPANDE, JJ.**

DATE : 28 August 2023.

P.C. :

Heard learned counsel for the parties. Taken up for disposal.
The challenge to an order passed by Maharashtra Administrative
Tribunal arises before us is in peculiar circumstances.

2 The Petitioner worked as Tahsildar (Revenue) in
Collector Office, Nashik. By an order dated 12 April 2023, by
general transfers of Tahsildars, one Mr.Parmeshwar Kasule was

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proposed to be brought on the post held by Petitioner as Tahsildar, Nashik. There was no specific order as such about the transfer of Respondent No.2. The Respondent No.2, apprehending that the Petitioner will be posted in his place, approached the Tribunal as above. The Respondent No.2 filed the Original Application No.691/23 in the Maharashtra Administrative Tribunal on 19 June 2023. challenging the order dated 16 June 2023 passed by the State Government. By this Order, the Petitioner who was described as waiting for posting, was proposed to be appointed on the post of Respondent No.2 at Pune, whose transfer was proposed. The Tribunal has set aside the order of Transfer dated 16 June 2023.

3 Two facts emerge. First is that there was no specific order removing Respondent No.2 from the post of Tahsildar. The second aspect is the contention of the learned AGP that while this posting was being finalised the Petitioner attempted to take charge to his proposed transferred place. This fact was refuted by the learned counsel for the Petitioner stating that this was never the case of the State.

4 Be that as it may, it appears to us that entire exercise carried out by the Tribunal was at premature stage, when there were no formal orders issued and the process was underway. In such a situation, according to us course of action will be to restore the position as it is, by setting aside the order of the Tribunal and the order of transfer, and maintain the position which is prevailant as on

today as fact and leave it to the State Government to take a considered decision by passing an order as per the administrative exigencies and on such other relevant grounds.

5 The learned counsel for the parties state that in the facts and circumstances this could be a workable solution, which will bring certainty to this litigation. Needless to state that the order passed by the State Government, if any, it is adverse to either the Petitioner or the Respondent No.2, they would have their remedies open. Learned Counsel for the Respondent No.2 state that Respondent No.2 is not due for Transfer. This aspect kept open.

6 Accordingly, the Writ Petition is disposed of by quashing and setting aside the order dated 19 June 2023 of Maharashtra Administrative Tribunal, and the order dated 16 June 2023, in respect of the parties to the Petition.

7 The learned counsel for the Petitioner states that fresh order be passed at the earliest preferably within one week. The learned AGP seeks time of two weeks. We find the request of learned AGP reasonable. The fresh order be passed by the State Government within a period of two weeks.

8 We note that currently Respondent No.2 is working as Tahsildar Pune and the Petitioner is currently without posting.

9 We make it clear that we have passed this order not as a reflection of rival contentions but as a solution to the issue to bring certainty in the services of both the Petitioner and Respondent No.2.

10 When the State Government will pass a fresh order within the period of two weeks, it shall take appropriate decision as regards the salary of the Petitioner as well.

11 After the fresh order is passed by the State Government, the remedy is open to both sides, which will be considered as per law.

(MANJUSHA DESHPANDE, J.) (NITIN JAMDAR, J.)