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

WRIT PETITION NO. 13358 OF 2023

Rahul Nagnath Patil

... Petitioner

V/s.

State of Maharashtra and Ors.

... Respondents

Mr. Kishor Shinde for the Petitioner

Mr. B.V. Samant, Addl. G.P. for the Respondent - State

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

DATE : 30 OCTOBER 2023

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner has challenged the order passed by the Maharashtra Administrative Tribunal dismissing the Original Application No. 284 of 2023 filed by the Petitioner.

3. The Petitioner joined the services in the Maharashtra Police Department on the post of Police Sub Inspector on 3 March 2013. He was allotted rent free service quarters at Andheri, Mumbai.

The Petitioner was promoted as Assistant Police Inspector and transferred to Nagpur City on promotion. The Original Application states that the Petitioner had made an application on 31 May 2021 for replacing the transferred place either in Nagpur Range or Gadchiroli Range instead of Nagpur City. Thereafter, by order dated 29 August 2021 the Petitioner was transferred to Gadchiroli Range, which is an area prone to naxalite activities. The Original Application stated that the Petitioner was called upon to vacate the quarters and penal charges were sought to be imposed. This challenge was sought to be placed before the Maharashtra Administrative Tribunal.

4. The Petitioner raises two contentions. Firstly, the impugned order is in violation of the Government Resolution dated 6 August 2002 whereby it permits retention of service quarters last held by the police personnel who is posted in the naxalite area. Secondly, the Petitioner contended that the Officer who issued the impugned order before the Tribunal was not competent to do so.

5. The Tribunal has treated the impugned notice dated 14 November 2022 as only an intimation and not an eviction order. If that be so, it was not necessary to conclude the issue at that stage and it could have been left open to the Petitioner to reply to this intimation and to put forth his case.

6. The learned Counsel for the Petitioner informs the Court that the Petitioner was not allotted any quarters in the Nagpur City. The last quarters he held was at Mumbai at the time of his transfer to Gadchiroli Range.

7. Since the impugned order itself states that the notice/order dated 14 November 2022 was only an intimation, it will have to be treated as such and thus intimation cannot be enforced. Therefore, we direct that before the intimation dated 24 October 2021 is implemented, the Petitioner be given an opportunity to put forth his case and upon considering the Petitioner's contentions/representation, the concerned authority will take a final decision upon the same.

8. With these observations, the Writ Petition is disposed of. The observations made by the Tribunal would not survive since what was challenged is only an intimation and the authorities will proceed to take a final decision on its own merits.

MANJUSHA DESHPANDE, J.

NITIN JAMDAR, J.

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