

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

WRIT PETITION NO.14216 OF 2024

Prashant Suryawanshi,]
Competent Authority No.7, SRA]
(Deputy Collector Cadre), Malad, Mumbai] .. **Petitioner**

Versus

1. The State of Maharashtra,]
Through Revenue and Forest Department]
2. The State of Maharashtra,]
Through Housing Department]
3. Smt. Sheetal Deshmukh, O.S.D.,]
Urban Land Ceiling, Mumbai] .. **Respondents**

Mr. Atul Damle, Senior Advocate, with Mr. Shashank Shubham, Ms. Payal Wardhan, Ms. Kinnari Raut and Mr. Laxmikant Patil, i/by Mr. Ashwin V. Sakolkar, Advocates for the Petitioner.

Mr. N.C. Walimbe, Additional Government Pleader with Mr. N.K. Rajpurohit, Assistant Government Pleader for the Respondent Nos.1 and 2.
Mr. Ashutosh R. Gole with Mr. Chirag Shah, Ms. Savita Suryawanshi and Ms. Kavita Dhanuka, Advocates for Respondent No.3.

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 11TH DECEMBER 2024.

PC. :

1. Heard the learned counsel for the parties.
2. The challenge raised in this writ petition is to the judgment dated 3rd October 2024 passed by the Maharashtra Administrative Tribunal in Original Application No.957 of 2024. By the said judgment, the Tribunal refused to set aside the transfer order dated 3rd August 2024 issued to the petitioner. By the said order of transfer the petitioner, along with twenty-

two other officers, came to be transferred from the post of Competent Authority No.7, Slum Rehabilitation Scheme, Mumbai (Borivali-2) to the post of Deputy Collector (Land Acquisition), Metro Centre No.3, Panvel.

3. Mr. Atul Damle, the learned Senior Advocate for the petitioner submitted that by an order dated 1st February 2022, the petitioner came to be posted as Competent Authority - 7 under the Slum Rehabilitation Scheme, Mumbai. He was to hold the said post on deputation for a period of one year. By another order dated 16th May 2023, the period of deputation was extended by two more years. In the said order, the petitioner's date of appointment was shown as "1st February 2022". Thus, according to him, the petitioner was entitled to enjoy the normal tenure of three years on the said post from that date. The period of three years would have expired only on 31st January 2025. However, before expiry of the period of three years, the petitioner was subjected to a mid-term transfer. On the ground that the normal tenure of three years was not completed, he was not liable to be transferred. No reason whatsoever was indicated in the transfer order except for a reference to the provisions of Sections 4(4) and 4(5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (*for short "the Act of 2005"*). It was submitted that in the reply filed on behalf of the State of Maharashtra before the Tribunal, the

order of transfer was sought to be justified by referring to the directions issued by the Election Commission of India dated 31st July 2024. Since there was no reference to the petitioner being transferred in view of these directions, it was not permissible to assign a different reason for transfer. The Tribunal ought to have interfered in the matter and it ought to have set aside the said transfer order of the petitioner. It was thus submitted that the impugned judgment of the Tribunal was liable to be set aside.

4. Mr. N.C. Walimbe, learned Additional Government Pleader for respondent nos.1 and 2 supported the impugned order. He relied upon the affidavit-in-reply filed before the Tribunal. According to him, the petitioner came to be transferred from Thane to Mumbai by an order dated 1st November 2021. Till the time he joined on the post of Competent Authority - 7, Slum Rehabilitation Scheme on deputation, the period was treated as one of “compulsory waiting”. In view of the directions issued by the Election Commission of India, since the petitioner had completed a period of almost three years, he came to be transferred from Borivali, Mumbai to Panvel. He submitted that since reference was made to the provisions of Sections 4(4) and 4(5) of the Act of 2005, there was no reason to interfere with the said transfer order. The Tribunal after considering all relevant aspects had declined to interfere. The writ petition was therefore liable to be dismissed.

Mr. Ashutosh Gole, learned counsel for respondent no.3 supported the order passed by the Tribunal.

5. We have heard the learned counsel for the parties at length and we have perused the documents on record. Undisputedly, the petitioner pursuant to the order dated 1st November 2021 came to be transferred from the post of Deputy Collector (Land Acquisition), Metro Centre-3, Thane to the post of Competent Authority – 7, Slum Rehabilitation Scheme, Mumbai. He was thereafter posted on deputation with effect from 1st February 2022 at the same place. While transferring the petitioner on 3rd August 2024, reference has been made to the provisions of Sections 4(4) and 4(5) of the Act of 2005 and it is stated that for administrative reasons and in public interest, the petitioner was transferred. The Tribunal while considering this aspect has noted that the period from 2nd November 2021 to 31st January 2022 was treated as compulsory waiting period but the petitioner was considered to be on duty. On that basis, the Tribunal declined to interfere on the ground that the petitioner had put in about three years service in Mumbai City. In our view, no fault can be found with this reasoning of the Tribunal. Since the petitioner had been transferred from Thane to Mumbai on 1st November 2021 and period of almost three years had been completed by the time the petitioner was again transferred, we do not find that there is any case made out to interfere in exercise of writ jurisdiction. Merely on the ground that the respondent

no.1 has sought to rely upon the Guidelines issued by the Election Commission of India dated 31st July 2024 in its reply as a reason for transferring the petitioner along with other twenty-two officers, we do not find the same sufficient to interfere on that basis. There are no allegations of malafides or favoritism made by the petitioner in the present proceedings. Hence, there is no case made out for interference.

6. For aforesaid reasons, the writ petition stands dismissed with no order as to costs.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]