



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6720 OF 2025

Dr. Vaishali Lalit Une (Lokhande)

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Ms. P.R. Wankhade, Advocate for petitioner

Mr. S.B. Pulkundwar, A.G.P. for respondent nos. 1 to 3

Mr. Ajay Deshpande, Advocate h/f Mr. C.V. Dharurkar, Advocate for respondent no.4

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CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.

DATE : 25th AUGUST, 2025

PER COURT :

. Heard. This petition takes exception to the judgment and order dated 09th May, 2025 passed by the Member, Maharashtra Administrative Tribunal, Bench at Aurangabad ('MAT'), thereby allowing the Original Application No. 1257 of 2024 preferred by present Respondent No.4. The order impugned herein reads thus :-

“(i) Impugned order dated 11.10.2024 issued by respondent no.1 in respect of transfer of applicant and respondent no.4 is quashed and set aside.

“(ii) Respondent Nos.1 to 3 are directed to take steps for reposting of the applicant on the post of Officer on Special Duty (Personal Cadre) (for short OSD), Government Medical College & Superspeciality Hospital, Chhatrapati Sambhajinagar, where he was working before impugned

order of transfer within a period of two weeks from the date of receipt of this order.

- (iii) The manner in which the respondent no.4 should be dealt with may have to be decided by the respondent nos.1 to 3 inter-se by issuing appropriate order.*
- (iv) The Original Application is allowed in the above terms. There shall be no order as to costs.”*

2. The petitioner herein was initially selected by the Maharashtra Public Service Commission way back in 2010 for the post of Associate Professor in Ophthalmology. In September 2022, she was selected for the post of Professor in Ophthalmology. However, for the first time she was given posting in November 2023. After being subjected to 2-3 transfers, she was ultimately transferred on 11th October, 2024 in place of Respondent No.4, who was working as Officer on Special Duty with Superspeciality Hospital, Chhatrapati Sambhajinagar, who was transferred to Jalna as Professor for Physiology with earlier given additional charge as Dean of Government Medical College, Jalna.

3. Having been aggrieved by the said order of transfer, Respondent No.4 approached the MAT in Original Application No. 1257 of 2024. The MAT, after having heard the parties thereto, allowed the application with the order impugned herein.

4. Learned counsel for the petitioner would submit that the Superspeciality Hospital was created / established by the Central Government

and particularly in implementation of the policy named, '*Pradhan Mantri Swasthya Suraksha Yojna*' and when the petitioner was posted under the said scheme, she should not have been transferred, moreso, when the authorities concerned did not have power to transfer her. According to learned counsel, the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 ('the Act') has, therefore, no application to the petitioner's transfer. On the question of transfer order to have been made without assigning any reasons in writing is concerned, learned counsel would submit that the proposal was moved on the recommendation of the Minister concerned. The same has been approved by the Chief Minister. Paragraph no.14 of the judgment in case of ***State of Maharashtra Vs. Ashok Ramchandra Kore and Anr. 2009 (4) Mh.L.J. 163*** was adverted to, to submit that even though no specific reasons have been given by the Chief Minister while approving the proposal, it should be deemed that the Chief Minister has applied his mind while approving the proposal for transfer of the petitioner. On the said aspect, a judgment in case of ***Santosh Nandalal Dala Vs. State of Maharashtra & Anr. Writ Petition No. 8813 of 2014, dtd. 06th May, 2015*** was also relied on. Adverting to the order passed by this Court on 10th June, 2025, it was submitted by learned counsel that the petitioner had made a representation to the authorities concerned. The same has been rejected / turned down by directing her to join on the transferred post.

5. Learned A.G.P. supports the claim of the petitioner herein.

6. Learned counsel for Respondent No.4, on the other hand, submits that before CSB, the proposal for transfer of the petitioner and Respondent No.4 was not at all there. With a view to extend favour to the petitioner herein, the proposal was moved mid-term and even mid-tenure as well. The same was approved by the Chief Minister without assigning any reason. The said order is, therefore, clearly in breach of the provisions of Sections 4(4)(ii) and 4(5) of the Act. According to learned counsel, since the order of transfer was in breach of statutory provisions of the Act, the MAT has rightly set aside the same. According to him, no interference with the order impugned herein is, therefore, warranted.

7. We have considered the submissions advanced. Perused the documents relied on. Also perused the order impugned herein.

8. Minutes of meeting of CSB indicate that the proposal for transfer of the petitioner and Respondent No.4 was not before it. The proposal before it pertained to the request for transfer of six other officers. The record further speaks that the proposal for transfer of the petitioner herein was included on the recommendation of the Minister concerned. The same was approved by

the Chief Minister. Close reading of the approval indicates that neither the Minister concerned nor the Chief Minister has given reasons in writing for transfer of the petitioner. It is true that Respondent No.4 has been serving at Aurangabad since 1997. When he was transferred to Jalgaon in the recent past i.e. in 2022, he even did not join the transferred post. He went on leave. It is also informed that Respondent No.4 has not joined the posting to which he was transferred by the order under challenge. It is also true that Respondent No.4 ought to have joined the transferred post and then challenged the same. It, however appears that the same ground was not raised before the MAT. It is informed that while Respondent No.4 was serving at Aurangabad, he was given additional charge of Dean of Government Medical College, Jalna. It is further informed that he continued to work as such and discharged the duties of additional charge. Be that as it may. The record indicates that the transfer of Respondent No.4 was made with a view to accommodate the petitioner herein. It is true that the petitioner was kept without a portfolio for a long. The fact, however remains that for effecting the transfer of Respondent No.4 with a view to accommodate the petitioner in his post, more so when it was mid term and mid tenure, the authorities concerned have not assigned any reason. The MAT has, therefore, rightly observed the transfer order to have been passed in breach of mandatory provisions of Sections 4(4)(ii) and 4(5) of the Act. Giving reasons in writing is a must. Facts fo the case (Ashok Kore – supra)

indicate there were nothings put up by the authorities concerned. Those were approved by the Chief Minister. In such factual backdrop, it was held that the Chief Minister was presumed to have applied mind. So is not the case in hand.

9. In this factual backdrop, we see no reason to interfere with the order impugned herein. Learned counsel for the petitioner, therefore, urged to direct the State authorities to accommodate the petitioner on the vacant post at Chhatrapati Sambhajinagar within a reasonable time. We can not recommend. We, however hope that the State authorities would give appropriate appointment to the petitioner within a period of two months from the date of this order.

10. In view of above, writ petition stands dismissed. On the request of learned counsel for the petitioner, this order shall remain in abeyance for three weeks only.

(NEERAJ P. DHOTE, J.)

SSD

(R.G. AVACHAT, J.)