

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

WRIT PETITION NO.1391 OF 2026

Amar Rajendra Nikam

...Petitioner

Versus

Maharashtra State Road Transport Corporation
(Through its Managing Director) & Ors.

...Respondents

Mr. Ajit M. Savagave (Through Video Conferencing) a/w Manthan S. Bhandigare, for the Petitioners.

Mr. Dhananjayrao D Rananaware a/w Shubham S. Dhoble, for the Respondent-MSRTC.

**Coram: Madhav J. Jamdar &
Pravin S. Patil, JJ.**

Date: May 8, 2026.

JUDGMENT :

1. Heard.
2. Rule. Rule is made returnable forthwith with the consent of the parties.
3. The Petitioner, who is working as a Depot Manager in Respondent No.2-Establishment, has approached before this Court to challenge the impugned Mid-Term Transfer Order dated 16th March 2026 issued by Respondent No.2-Regional Manager (Supervisory Committee No.4-Pune Region). The challenge to the transfer is on the following grounds:

- i. The impugned Transfer Order is in violation of the guidelines

framed by Respondent No.1-Maharashtra State Road Transport Corporation (MSRTC) vide its Circular dated 2nd May 2014/3rd May 2014.

- ii. The impugned Transfer Order has been issued by way of punishment, which is not permissible under the settled principles of law.
- iii. The transfer is a mid-term transfer without disclosure of any administrative reasons in the impugned Order.
- iv. According to the Petitioner, there is malice in law while issuing the Transfer Order. Hence, the same is not permissible under the settled principles of law.

4. In support of the aforesaid grounds, the Petitioner has specifically set out his case in Paragraph No.6 of the Petition, which reads as under:

"6. The Petitioner states that it appears that due to departmental action taken by him against one delinquent employee of Kavathemahankal Depots, Union of workmen made false complaint with M.L.C. Shri. Sadabhavo Khot against him. The Petitioner states that M.L.C. Shri. Sadabhavo Khot without verifying the truth interfere in administrative work of M.S.R.T.C and only at his instance the impugned mid-term transfer order has been passed."

5. The Petitioner further pointed out that, as per the law laid down by the Hon'ble Supreme Court of India in ***Somesh Tiwari v. Union of***

India¹, a transfer by way of punishment is not permissible. It is held by the Hon'ble Supreme Court that if a Transfer Order is passed in lieu of punishment, the same is liable to be set aside. In this regard, the findings recorded by the Hon'ble Supreme Court in Paragraph No.16 are relevant, which read as under:

"16. Indisputably an order of transfer is an administrative order. There cannot be any doubt whatsoever that transfer, which is ordinarily an incident of service should not be interfered with, save in cases where inter alia mala fide on the part of the authority is proved. Mala fide is of two kinds—one malice in fact and the second malice in law. The order in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of transfer and based on an irrelevant ground i.e. on the allegations made against the appellant in the anonymous complaint. It is one thing to say that the employer is entitled to pass an order of transfer in administrative exigencies but it is another thing to say that the order of transfer is passed by way of or in lieu of punishment. When an order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal."

6. In the light of this submission, this Court has issued notices to the Respondents in the matter. Accordingly, the Respondents appeared and filed their Affidavit dated 20th April 2026.

7. The Respondents have admitted the fact that a Circular was issued by the MSRTC on 2nd May 2014/3rd May 2014. According to them, as per Clause 8(5), the Department is entitled to issue a Transfer Order in exceptional circumstances.

8. It is further admitted that, in view of the complaint filed by the

¹ (2009) 2 SCC 592

employees against a Driver-cum-Conductor of MSRTC, who was suspended on 12th June 2025 by the Depot Manager, Kavathe Mahankal, the Petitioner was assaulted and abused at the said depot by union office bearers for the aforesaid reason. As such, the grounds set out by the Petitioner, reproduced above, are not disputed by the Respondents.

9. It is the further submission of the Respondents that, in the present matter, pursuant to the incident dated 13th June 2025, an enquiry was conducted and a report to that effect was submitted by the Enquiry Committee, Sangli Division and, accordingly, a Charge-sheet has been issued to the Petitioner. In view of the said misconduct and repeated complaints, the Respondents rightly transferred the Petitioner on administrative ground vide the Mid-Term Transfer Order dated 16th March 2026.

10. In the light of the submissions of both the parties, it is crystal clear that the services of the Petitioner have been transferred by way of punishment. In view of the law laid down in the decision of **Somesh Tiwari** (supra), we are of the opinion that a Transfer Order cannot be issued by way of punishment. Hence, relying upon the Judgment of the Supreme Court, the impugned Order being bad in law is liable to be quashed and set aside.

11. It is further pertinent to note that, as per the own

Circular/Guidelines issued by the Respondent-Department and more particularly Clause 8(5) of the Circular, Mid-Term Transfer Orders can be issued in exceptional circumstances, but for that purpose a specific procedure is prescribed. The said guidelines specifically states that if the complaints are received, then after conducting an enquiry and subject to the satisfaction of the officer and upon recording special reasons and obtaining due sanction of the higher authorities for such transfer, a Transfer Order can be issued.

12. In view of this factual position, we have perused the impugned Transfer Order. The Transfer Order nowhere demonstrates that it was issued on the basis of any complaint received by the officer or that after obtaining sanction and recording any cogent reasons, the said Transfer Order was issued in the matter. It is merely stated that on administrative ground the Transfer Order was issued. Therefore, we are of the considered opinion that the impugned Transfer Order has been issued in violation of the Guidelines/Circular of the Respondent-Department dated 2nd May 2014/3rd May 2014.

13. It is also a well-settled position of law that while issuing a Mid-Term Transfer Order, specific reasons should be recorded and the person whose services are transferred should be made aware of the reasons for such transfer. However, in the present case, no such reasons are recorded in the Transfer Order. Hence, a mid-term transfer

without disclosure of reasons is not permissible as per the settled principles of law. Hence, on this count also, the impugned Order is illegal.

14. It is pointed out by the Petitioner that the Transfer Order has already been implemented and that the Petitioner has joined at the transferred place — Pargaon, Khandala Depot, Satara Division, and another person has already joined in his place. Therefore, practically it is not possible for them to immediately implement the Order in view of this administrative difficulties. Accordingly, the Respondents are granted a period of 1 month to implement the Order of this Court from the date of receipt of this order.

15. With this direction, the present Writ Petition stands disposed of.

[Pravin S. Patil, J.]

[Madhav J. Jamdar, J.]