

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 16882 OF 2025

Venkateshwar Vasantrao
Vedpathak

...Petitioner

Vs.

The State of Maharashtra
Thru. Secretary and Ors.

...Respondents

Adv. Pushpa Ganediwala (Through VC) a/w Adv. Anshu Agrawal -
Advocate for the Petitioner

Adv. Sandeep Dere a/w Sonali Pawar and Tanvi Devsthali, Arati Patil
Dere - for the Respondent No. 4.

Ms. Reena A. Salunkhe – AGP for Respondent-State.

CORAM : M. S. KARNIK AND
S. M. MODAK, JJ.

DATE : 03rd FEBRUARY 2026

P. C. :-

1. We are conscious of the facts that original application is pending before the Tribunal. The Petitioner has also prayed for direction to expedite the proceeding before the tribunal. The Petitioner, who is working as Assistant Commissioner (Food and Drug) Administration, was transferred from Thane to Mumbai. This order is under challenge before the tribunal.

2. Generally, we would be slow in interfering in such a matter when transfer is from Thane to Mumbai. However, we are faced with the situation where the son of the Petitioner is suffering from 100% permanent disability.

3. *Prima-facie*, we find substance in the submission of learned counsel for the Petitioner that the Petitioner is a “care-giver” within the meaning of Section 2(d) of the Rights of Person with Disabilities Act, 2016 (in short ‘the Disabilities Act’) and that the child (son of the Petitioner) needs “high support” within the meaning of Section 2 (l) of the said Act.

4. There are special provisions for person with disabilities with high support needs under Chapter VII of the said Act. Section 38 under Chapter VII reads thus:-

(1) Any person with benchmark disability, who considers himself to be in need of high support, or any person or organisation on his or her behalf, may apply to an authority, to be notified by the appropriate Government, requesting to provide high support.

(2) On receipt of an application under sub-section (1), the authority shall refer it to an Assessment Board consisting of such Members as may be prescribed by the Central Government.

(3) The Assessment Board shall assess the case

referred to it under sub-section (1) in such manner as may be prescribed by the Central Government, and shall send a report to the authority certifying the need of high support and its nature.

(4) On receipt of a report under sub-section (3), the authority shall take steps to provide support in accordance with the report and subject to relevant schemes and orders of the appropriate Government in this behalf.

5. The Petitioner can take recourse to the procedure laid down in Section 38 of the said Act. However, in our considered opinion, the Competent Authority also needs to appreciate the peculiar facts and circumstances while issuing said order of transfer bearing in mind the provisions of the said Act.

6. The learned counsel for the Petitioner submitted that this would be the last posting of the Petitioner and he has only 2 ½ years of service left. The facts of the case and sensitivity of the matter should be good enough reason for the Competent Authority i.e. Secretary Medical Education and Drugs Department to reconsider the issue of transfer and consider posting of the Petitioner to any office close to the Petitioner's current residential address, so that the Petitioner can be in close proximity to his son who needs high support. This would give true effect and meaning to a welfare legislation for which Disabilities

Act has been enacted.

7. We are confident that if the Competent authority/Secretary of the Medical Education and Drugs department consider the matter from this perspective, the issue of transfer could be reconsidered as it is not only the administrative exigencies which are undoubtedly to be kept in mind, but the issue has to be looked at from the standpoint of the Petitioner's child who needs high support due regard being had to the provisions of Disabilities Act.

8. There are ample provisions in the Disabilities Act empowering the Competent Authority to pass the appropriate orders keeping the interest of the child in mind. We have no doubt that the Secretary of the Department will take an informed decision in the present case keeping in mind the object for which Disabilities Act has been enacted.

9. The learned AGP is pleased to order for consideration by the Secretary. We hope and trust, the issue will be resolved.

10. List the petition on **12th February 2026** for further consideration.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)