

MHIC100000692025



**IN THE INDUSTRIAL COURT, SANGLI
(BEFORE R.V. UTPAT, MEMBER)**

COMPLAINT (ULP) NO. 30 OF 2025

Tushar Mahaling Bhore
R/o. Kupwad Tal-Miraj Dist-Sangli ... Complainant

VERSUS

1. Mukhya Vansanrakshak Pradeshik and Others
R/o. Kolhapur

2. Sub Vansanrakshak Pradeshik Sangli
Kupwad Tal-Miraj Dist-Sangli

3. Sudhir Vasant Sonawane
R/o. Kupwad Tal-Miraj Dist-Sangli

... Respondents

Appearances: Shri U. R. Jadhav, Ld. Advocate for the
Complainant
Shri M. H. Gramopadhye, Ld. A.G.P for the
Respondents

ORDER BELOW EXHIBIT U-2

(Passed on 11.08.2025)

1. This application is filed under Section 30(2) of the “Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971” (for short, “the MRTU & PULP Act”) seeking interim stay to the transfer order dated 30.05.2025 thereby, transferring and posting the complainant to

Dahiwadi, Satara.

2. Shortly stated, case of the complainant is as follows:-

That, on 23.02.2006, the complainant was appointed as "Forest Guard" and on 23.06.2021, he came to be promoted as "Forester". Forester is a Class III post, and it is covered by the definition of "workman". The complainant has served as "Forest Guard" in Kolhapur and Sawantwadi Divisions and presently, he is posted as Forester at Bhoze in Sangli Division. As per the Transfer Policy dated 9.4.2018, the respondents had asked the complainant to give preferences for posting locations and the complainant by his letter dated 17.04.2025 had conveyed his ten preferences. Thereafter, counseling took place and rest of the employees were given transfer postings as per the preferences given by them. The complainant had joined the Sangli Forest Division on promotion just three years ago and as per the Government Circular dated 15.03.2017, it was necessary to allow him to serve in the same Division for three more years. However, with a view to help the Respondent No.3 in getting posting in the Sangli Division despite that, he is serving in the same division for last 15 years, the respondents have transferred the complainant to Dahiwadi in Satara Forest Division, without obtaining prior approval from the competent senior officer and by keeping the post of Forester in Sangli Division vacant. The transfer of the complainant is *mala fide* and aimed at giving convenient posting to the

Respondent No.3 at the cost of the complainant, in violation of the Government Circular. Therefore, the complainant has filed complaint of unfair labour practices under Items 3, 9 and 10 of Schedule IV of the MRTU & PULP Act. He has a strong prima facie case and balance of convenience is also in his favour. If the transfer order is not stayed, irreparable loss will be caused to him. On these averments, the complainant has prayed for staying the transfer order dated 30.05.2025 till the final disposal of the complaint on merits.

3. The application is resisted by the Respondents No.1 and 2 by filing say and written statement at Exh.C-3 thereby, denying all the allegations of unfair labour practices. The respondents have objected the complaint on the ground that, the complainant is a “Forest Officer” and not a workman. Besides, the Forest Department is not “industry” within the meaning given in Section 2(j) of the Industrial Disputes Act, 1947 and this Court has no jurisdiction to try the complaint. The respondents have specifically denied that, they have transferred the complainant by violating the Transfer Policy as set out in the Government Resolution dated 15.03.2017 (modified by Government Resolution dated 22.05.2017). They have also denied that, the transfer is *mala fide*. According to them, the Civil Services Committee constituted for recommending transfers consists of five members. They have also specifically averred that, the transfer of the complainant is as per the Rules

and for administrative exigencies.

4. They have further averred that, the complainant had applied for transfer and as per the Government Resolution dated 09.04.2018, the concerned Committee while recommending the transfers by way of counseling had taken into consideration the preferences given by the employees as well as their previous postings. It is not always possible to transfer each and every employee as per his preferred location and administrative exigencies are also required to be kept in mind. The complainant has primarily served in Kolhapur, Sangli and Sawantwadi Forest Divisions and he has never served in the Satara Forest Division. The Committee took into consideration all the circumstances while recommending the transfer of the complainant. The respondents have also specifically averred that, after putting in three years of service in the Sangli Forest Division as Forester, the complainant was due for transfer and thereafter, he has been transferred to Satara Division as per the Transfer Policy. According to them, distance between Sangli and Dahiwadi is only about 50 Km. and the transfer cannot be said to be inconvenient to the complainant but, the complainant intends to stay at Sangli for years together and therefore, he has filed this false complaint. On these averments and contentions, the Respondent No.1 and 2 have prayed for rejecting the application.

5. The Respondent No.3 has resisted the application by filing say at Exh.CA-5. He has specifically averred that, he has put in three years service in the post of Forester (Social Forestry) in the Sangli Forest Division and by the order of the Deputy Forest Conservator (Regional) dated 30.05.2025, he has been transferred and posted as Forester at Bhole (Regional) in Sangli Forest Division by way of rotation, in the post falling vacant due to transfer of the complainant. He has denied that, he has been given any favourable treatment. He has also denied that, the complainant's transfer is *mala fide*. He has specifically averred that because of this complaint, he is not allowed to join his new posting and therefore, he is not even getting his monthly salary. On these averments and contentions, he has prayed for rejecting the application.

6. I have heard learned Advocate Mr. U. R. Jadhav for the complainant, learned A.G.P Mr. M. H. Gramopadhye for the Respondent No.1 and 2 and learned Advocate Mr. K. C. Kadam for the Respondent No.3. I have also perused the material on record before taking up the matter for consideration.

7. In view of the rival submissions, following points arise for my determination and I have recorded my findings thereon for the reasons stated hereinafter:

| POINTS | FINDINGS |
|--|--------------------|
| 1. Whether the complainant has <i>prima facie</i> case ? | No |
| 2. Whether the balance of convenience is in favour of the complainant ? | No |
| 3. Whether the complainant will suffer irreparable loss if interim relief is refused ? | No |
| 4. What order ? | As per final order |

REASONS

As to Points No. 1 to 3 :-

8. The learned Advocate for the complainant vehemently submitted that, as per the Transfer Policy, the complainant had given ten preferences in the prescribed proforma. He further submitted that, the complainant had previously served in Kolhapur and Sawantwadi Forest Divisions however, in the counseling process, the concerned Committee did not take into consideration his preferences and previous postings and transferred him to Satara Forest Division with a view to help the Respondent No.3 to get the posting in the Sangli Forest Division. He further vehemently submitted that, as per the Government Resolution dated 22.05.2017, it was necessary to obtain prior permission of the senior competent officer for retaining the Respondent No.3 in the same Forest Division. He pointed out that, in the counseling proceeding, there is no reference to the complainant at all and no

explanation is given as to why his preferences were not considered. He also submitted that, even though the post of “Forester” was vacant in the Sangli Division, the Forester from Kolhapur Division came to be transferred to Sangli Division, but the complainant’s request for posting him in the Sangli Division was ignored without any cogent reason. He also submitted that, the complainant’s wife is taking medical treatment at Sangli, so also, the complainant is native of Kolhapur and having old parents to take care of and therefore, he had requested to the Chief Forest Conservator (Regional), Kolhapur for posting him in the Social Forestry branch, Sangli. The learned Advocate lastly submitted that, the complainant’s transfer is not only *mala fide* but also, in breach of the Rules as well as Transfer Policy and therefore, it is necessary to stay the same.

9. Per contra, the learned A.G.P. vehemently submitted on behalf of the respondents No.1 & 2 that, the transfer of the complainant and the Respondent No.3 are in tune with the Transfer Policy also as well as Government Resolutions. He further submitted that, the complainant was due for transfer and there is no arbitrariness in his transfer order. He also submitted that, it is not always possible to give preferred posting to every employee and administrative exigencies are also required to be kept in mind. He then submitted that, the Respondent No.3 was earlier posted in the Social Forestry branch, Sangli and by the transfer order, he has been posted at Bhoze territorial circle,

Sangli. According to him, prior permission of the competent senior officer is necessary only when, the concerned Forester is required to be retained for administrative reasons in the same Forest Division after two successive tenures in the same Division, which is not the case here. He also submitted that, the Forest Department is not “industry” and this Court has no jurisdiction to try the complaint.

10. The learned Advocate for the Respondent No.3 submitted that, the transfer of the Respondent No.3 is according to the Rules and Policy and, because of the stay order passed by this Court, the Respondent No.3 is not permitted to join the new posting and he is unable to draw salary for last two months, which is causing great hardship to him.

11. The learned Advocate for the complainant in reply submitted that, through its Social Forestry branch, the Forest Department is indulged in business activities such as selling saplings and the said activities attract the definition of “industry”.

12. I have given thoughtful consideration to the submissions made on behalf of the parties and also perused the material on record.

13. There is no dispute that, the complainant was due

for transfer as he has put in three years of service at the existing posting. It is also not in dispute that, as per the Transfer Policy, the complainant had submitted his ten preferences on 17.04.2025 in prescribed form and his transfer posting is not his preferred posting. The Government Resolution dated 22.05.2017; which sets out the Transfer Policy states that, the Forest Guards, Foresters, Assistant Forest Conservators etc. are expected to work in all the areas such as wild life, bio-diversity, social forestry, research and training etc. There are four main branches of a forest division viz. territorial circle, wild life circle, social forestry circle and functional circle. As regards Foresters, it is a Class III post and Rule (iii) of the transfer policy; which the complainant is relying upon, says that, if a forester is required to be posted in the same territorial forest division for more than two tenures for administrative reason, the transferring authority has to seek prior permission of the senior competent officer. In the case at hand, the complainant has vaguely stated that, the Respondent No.3 is serving in the Sangli Division for last 15 years without placing any document on record to that effect. Secondly, it is necessary for the complainant to show how his transfer is *mala fide* by placing cogent material on record to that effect and if at all there is any irregularity in the transfer of the Respondent No.3, the same is not helpful in furthering the case of the complainant. No doubt, the complainant had given ten preferences but, in disregard to his preferences, he has been posted to Dahiwadi in Satara Forest

Division. However, it is to be noted that, the Transfer Policy nowhere mandates that, an employee has to be transferred to any of the locations preferred by him. The Government Resolution dated 9.4.2018 states that, the Annual General Transfers of the Government Officers by way of counseling shall take place in the month of April/May and while recommending transfers, the Civil Services Committee shall take into consideration the preferences and previous postings. It also makes it clear that, while considering the preferences and previous postings, administrative exigencies are also required to be considered and it is not possible to give preferred posting to each and every employee.

14. As far submission of the learned Advocate for the complainant that, the complainant's wife is taking medical treatment at Sangli and the complainant has also to take care of his old parents is concerned, it is pertinent to note that in the complaint as well as the proforma submitted by the complainant, the complainant has nowhere mentioned about the same. It seems that, after the transfer order, he has written a letter to the Chief Conservator of Forest on 10.06.2025 mentioning about the said grounds. Therefore, the same cannot be to be taken into consideration while deciding this application.

15. As far the submission about absence of explanation in the proceeding of counseling as to why the complainants

preferences were not considered, the concerned Committee has referred to the Government Resolutions and the directions issued therein. It seems that, the Committee has given specific reasoning in respect of only those cases wherein specific exceptional circumstances existed e.g. the Forester Smt. D'Souza was due for transfer and though she had put in three years at Kadgaon, Kolhapur, since her husband is also serving in the Kolhapur division, as per the Government policy of posting husband-wife nearby, the Committee decided not to transfer her. The complainant does not seem to have put forth any specific ground or pleaded any exceptional circumstances before the concerned Committee.

16. It is well settled that, Transfer is an incident of service and Courts cannot interfere in the matters of transfer, except when it is shown that, the transfer is *mala fide one* or it is against the Rules. It is also well settled that, an employee has no vested right to get a posting at a particular place or choose to serve at a particular place for a particular time. It is within the exclusive domain of the employer to determine as to what place and for how long the services of a particular employee are required. It is also well settled that, there is very little scope for technical review by the Courts/Tribunals against the transfer order and the same is restricted only if the transfer order is found to be in contravention of the statutory Rules or *mala fides* are established. In case of *mala fides*, the employee has to make

specific averments and should prove the same by adducing impeccable evidence. Here, the complainant has not pinpointed as to what exact statutory Rules have been breached while transferring him or how the transfer is *mala fide*. Merely saying that, with a view to help the Respondent No.3 in getting convenient posting, the complainant is being transferred would not be sufficient. The Transfer Committee (Civil Services Committee) is consisting of five members and the complainant has not made it clear as to what is the reason the Committee is holding grudge against him and transferring him to Satara Division. Merely because the proposed posting is not convenient to him, he cannot say that the transfer is *mala fide*. In these circumstances, I do not find *prima facie* case with the complainant. The balance of convenience is also not in his favour. So also, the complainant has also not been able to show how irreparable loss would be caused to him if the transfer order is not stayed. Hence, I answer Point No.1 to 3 in the negative.

17. As far as the objection as regards maintainability of the complaint is concerned, the learned Advocate for the Respondents No.1 and 2 submitted that, the Forest Department is not an “industry” whereas, the learned Advocate for the complainant submitted that, the Forest Department is engaged in commercial activities such as selling saplings through its social forestry branch and hence it falls within the definition of

industry. The parties have referred to some rulings in that regard as well. However, for dealing with the said objection, it would be necessary to find out what exact activities are being undertaken by the Respondents No.1 and 2 and whether those activities would attract definition of industry and the same will require thorough appreciation of evidence. Since, I have held that, the complainant is not having prima facie case, the said objection is not required to be dealt with at this stage.

18. In view of the foregoing discussion and my findings as aforesaid, the application is liable to be rejected. Hence, I proceed to pass the following order.

ORDER

Application is rejected.

Place : Sangli

(R.V. UTPAT)

Member,

Date : 11.08.2025

Industrial Court, Sangli

nsp/-

Order dictated on 11.08.2025

Order typed on 11.08.2025

Order checked and signed on 13.08.2025