

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 552 of 2024**

=====

BHARATKUMAR GAJUJI THAKOR

Versus

STATE OF GUJARAT

=====

Appearance:

MR RB THAKOR(6743) for the Petitioner(s) No. 1,2

for the Respondent(s) No. 2,3,4,5

MR ADITYA PATHAK, ASST.GOVERNMENT PLEADER/PP for the
Respondent(s) No. 1

=====

CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 10/01/2024****ORAL ORDER**

1. Heard learned advocate Mr.R.B.Thakor on behalf of the petitioners and learned Assistant Government Pleader Mr.Aditya Pathak on behalf of the respondent – State.

2. By way of this petition, the petitioners who are police constables working in the Banaskantha District, challenge an order of transfer dated 03.04.2024 whereby the petitioners have been transferred to Tapi and Amreli Districts respectively.

3. Considering the submissions made by learned advocate Mr.Thakor, it would appear that the order of transfer probably

appears to be based on the order of punishment passed against the petitioners pursuant to a departmental proceedings and whereas, it is contended by learned advocate Mr.Thakor relying upon a decision of the Hon'ble Division Bench of this Court on Letters Patent Appeal No.2277/2010 dated 17.02.2011 that an inter-district transfer cannot be indefinite and whereas, the order of transfer should also specify the period for which the transfer would be effective.

4. As against the same, learned AGP Mr.Pathak relies upon decision of learned Coordinate Bench of this Court dated 06.08.2015 passed in Special Civil Application No.8463/2015. Incidentally, the Hon'ble Judge passing the above judgment (Justice J.B.Pardiwala as his Lordship then was) was also a part of the Hon'ble Division Bench deciding the Letters Patent Appeal No.2277/2010.

4.1. It would, as submitted by learned AGP, that vide the decision dated 06.08.2015, the learned Coordinate Bench had inter alia taken a view that in case of transfer in public interest, the issue of when the transfer appeared to be punitive, to ensure that the police constable should be kept at a distance so that his position is not been abused by criminals,

was not one of the issues in consideration before the Hon'ble Division Bench and whereas, the learned Coordinate Bench had declined to interfere in an inter-district transfer of a police constable where the transfer was actuated by a consideration that the constable had misused his position or had misconducted himself by keeping close proximity with known criminals.

5. Considering the prima facie divergent views, the issue would require consideration. Hence, issue **Notice to the respondents, returnable on 21.02.2024.** Learned AGP Mr.Pathak waives service of notice on behalf of the respondent – State. Direct service for rest of the respondents is permitted.

Bhoomi

(NIKHIL S. KARIEL,J)