

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF AUGUST 2025

PRESENT

THE HON'BLE MR. JUSTICE S. G. PANDIT

AND

THE HON'BLE MR. JUSTICE K.V.ARAVIND

WRIT PETITION NO.3612/2025 (S-KSAT)

BETWEEN:

SRI S VENKATESHAPPA
S/O SAKAPPA
AGED ABOUT 43 YEARS
WORKING AS TAHSILDAR GRADE-1
BANGARPETE TOWN (TALUK)
KOLAR DISTRICT-563 114.

R/AT C/O ANAND KUMAR
H.NO.1475/1, 6TH MAIN
3RD CROSS, VIVEKANANDANAGAR
BANGARPETE-563114.

... PETITIONER

(BY SRI.JAYANTH DEV KUMAR, ADV.)

AND:

1. STATE OF KARNATAKA BY ITS
PRINCIPAL SECRETARY TO THE GOVERNMENT
DEPARTMENT OF REVENUE
M.S. BUILDING
BENGALURU – 560 001.
2. THE COMMISSIONER
REVENUE DEPARTMENT

M.S. BUILDING
BENGALURU- 560001.

3. THE REGIONAL COMMISSIONER
REVENUE DEPARTMENT
2ND FLOOR, BMTC BUILDING
K.H.ROAD, SHANTINAGAR
BENGALURU- 560 027.

4. SMT. SUJATHA K.N.
MUZRAI TAHSILDAR
O/O DEPUTY COMMISSIONER
KOLAR, KOLAR DISTRICT-563 101.

5. THE DEPUTY COMMISSIONER
KOLAR DISTRICT
KOLAR- 563 101.

...RESPONDENTS

(BY SRI REUBEN JACOB, AAG A/W
SRI V SHIVAREDDY, AGA FOR R1 TO R3 AND R5
SRI UDAY HOLLA, SR. ADV. FOR
SRI KAPILDEV C ULLAR, ADV. FOR C/R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE ENTIRE RECORDS PERTAINING TO A.NO.2/2025 BEFORE THE KSAT A) QUASHING THE ORDER DATED 30.01.2025 PASSED BY THE KSAT BENGALURU IN A.NO.2/2025 (UNDER ANNEXURE-A) AND ALLOW THE A.NO.2/2025 (UNDER ANNEXURE-B) AND GRANT ALL THE CONSEQUENTIAL RELIEFS AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON **05.08.2025** COMING ON THIS DAY, **S.G.PANDIT J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE S.G.PANDIT
and
HON'BLE MR JUSTICE K.V.ARAVIND

CAV ORDER

(PER: HON'BLE MR JUSTICE S.G.PANDIT)

The petitioner, Tahasildar Grade-I is before this Court under Article 226 of the Constitution of India, aggrieved by the order dated 30.01.2025 in Application No.02/2025 passed by the Karnataka State Administrative Tribunal at Bengaluru (for short, 'the Tribunal'), rejecting his prayer to quash the impugned order of transfer and posting of respondent No.4 in his place under notification dated 31.12.2024 (Annexure-A6).

2. Brief relevant facts are that, the petitioner is working as Tahasildar, Grade-I which is a Group-A post at Bangarpet, Kolar District in pursuance to notification dated 31.07.2024. A show-cause notice dated 22.08.2024 was issued to the petitioner calling upon the petitioner to explain as to why he was not in the office on 22.08.2024 when the Deputy

Commissioner visited the office of the Tahasildar. The petitioner is said to have submitted his reply stating that he was on field duty which was accepted as satisfactory by the Deputy Commissioner and the matter stood closed.

3. It is stated that in a Bagar Hukum Committee meeting held on 28.11.2024, certain differences arose between the petitioner and the Member of Legislative Assembly, Bangarpet Constituency on one of the issue and the said Member is said to have threatened the petitioner of transfer. The Member of Legislative Assembly, Bangarpet Constituency addressed a letter dated 13.12.2024 alleging that there are complaints against the petitioner from the public and sought transfer of the petitioner with a request to post the fourth respondent in his place. Thereafter, impugned order dated 31.12.2024 transferring the petitioner and posting the

fourth respondent is passed. Questioning the said order of transfer and posting, petitioner approached the Tribunal in Application No.02/2025, wherein interim order of stay was passed on 03.01.2025 and vide impugned order the application was dismissed. Questioning the said order of the Tribunal as well as the impugned order of Transfer dated 31.12.2024, the petitioner is before this Court in this writ petition.

4. Heard learned counsel Sri.Jayanth Dev Kumar for petitioner, learned Additional Advocate General Sri.Reuben Jacob along with Sri.V.Shivareddy, learned Additional Government Advocate for respondent Nos.1 to 3 and 5 and learned senior counsel Sri.Uday Holla for Sri.Kapildev C. Ullal, learned counsel for Caveator/respondent No.4. Perused the entire writ petition papers as well as Xerox copy of the note sheet relating to the transfer.

5. Learned counsel Sri.Jayanth Dev Kumar for petitioner vehemently contends that the impugned order of Transfer is premature; opposed to transfer guidelines dated 25.06.2024; and the impugned order of transfer is not in the interest of public and at the instance of the local MLA. Learned counsel for the petitioner elaborating his submission would submit that the petitioner is a Group-A Officer of the State Government and Group-A officers are provided with minimum tenure of two years. Learned counsel for the petitioner would submit that the petitioner has not even completed six months of service at Bangarpet and the transfer is totally premature.

6. Learned counsel for the petitioner would contend that the transfer of the petitioner is not in the interest of public, but it is only at the instance of the local MLA. Learned counsel would invite attention of this Court to letter dated 13.12.2024 (Annexure-R3)

by the local MLA to the Revenue Minister stating that as there is complaint against the petitioner from the public, to transfer the petitioner from Bangarpet and to post the fourth respondent in his place. Since the transfer of the petitioner is at the behest of the MLA, the same requires to be interfered with. Learned counsel would place reliance on the decision of the Hon'ble Apex Court in the case of **SARVESH KUMAR AWASTHI VS. U.P. JAL NIGAM AND OTHERS**¹ and submits that if the transfer is at the behest of MLAs/MPs, it requires interference, as better administration demands the same.

7. Learned counsel for the petitioner would further submit that there was no allegation or complaint or enquiry against the petitioner. He further submits that as stated above, show cause notice dated 22.08.2024 was issued to the petitioner which

¹ (2003) 11 SCC 740

was replied to, on 24.08.2024. The reply of the petitioner was accepted and closed thereafter. Learned counsel would submit that the order of transfer of the petitioner suffers from malice in law and in that regard, learned counsel places reliance on the decision of the Hon'ble Apex Court in the case of ***STATE OF MYSORE VS. P.R.KULKARNI AND OTHERS²***.

8. Learned counsel referring to the impugned order of the Tribunal would submit that the Tribunal failed to appreciate the contentions raised by the petitioner and further submits that the transfer guidelines would not permit transfer of a Government servant on complaint unless enquiry is conducted on the said complaint as otherwise it would amount to transfer as punishment. Thus, learned counsel would pray for allowing the writ petition.

² (1973) 3 SCC 597

9. Per contra, learned Additional Advocate General Sri.Reuben Jacob would submit that the transfer of the petitioner necessitated as the concerned MLA requested for transfer of the petitioner since the petitioner was not listening to the grievances of the public. Further, learned Additional Advocate General would submit that the transfer of the petitioner is approved by the Chief Minister as required, by recording reasons for the premature transfer of the petitioner. Learned Additional Advocate General for the State invites attention of this Court to Clauses 5(3) and 5(4) of the Government order dated 25.06.2024 and submits that wherever there is complaint against the Government servant and in exceptional reasons wherever transfer is considered as necessary, transfer could be effected with the approval of the Chief Minister.

10. Learned Additional Advocate General would submit that as held by the Hon'ble Apex Court in the case of **MOHD. MASOOD AHMAD VS. STATE OF U.P. AND OTHERS³**, the transfer on the recommendation of MLA itself would not vitiate the transfer and if there is complaint against an official, the State Government would certainly be within its jurisdiction, to transfer such an employee. Learned Additional Advocate General would submit that there is no basis to appreciate the contention of the petitioner with regard to legal malice and other grounds. Thus, it is prayed for dismissal of the writ petition.

11. Learned senior counsel Sri.Uday Holla for Sri.Vivek Holla, learned counsel for caveator/respondent No.4 while supporting the submission of the learned Additional Advocate General

³ (2007) 8 SCC 150

would further submit that the petitioner is provided with posting at Kolar district itself and no prejudice or hardship would be caused to the petitioner. Moreover, he submits that no Government servant has a right to stick to a particular post as the transfer is not a condition of service it is only an incidence of service. Thus, he prays for dismissal of the writ petition.

12. Having heard the learned counsel appearing for the parties and on perusal of the entire writ petition papers, the only point which falls for our consideration is as to,

Whether the interference of this Court is warranted to the impugned order of the Tribunal as well as impugned order of transfer?

13. Answer to the above point would be in the negative for the following reasons:

The transfer is not a condition of service and transfer is an incidence of service as held by the Hon'ble Apex Court in **B.VARADHA RAO v/s STATE**

OF KARNATAKA AND OTHERS reported in **(1986) 4 SCC 131** The State Government has laid down guidelines for transfer of a government servant under Government Order dated 25.06.2024 (Annexure-A3). A co-ordinate bench of this Court in the case of **CHANDRU.H.N. V/S. STATE OF KARNATAKA AND OTHERS [2011 (3) KLJ 562]** and **S.N.GANGADHARAI AH V/S STATE OF KARNATAKA, REPRESENTED BY ITS PRINCIPAL SECRETARY AND ANOTHER** reported in **ILR 2015 KAR 1955** has held that transfer guidelines have the statutory force. Clause-5(3) and (4) of Transfer Guidelines dated 25.06.2024 are relevant to the facts of the present case, which read as follows:

"(3) The number of transfers to be made due to special or exceptional reasons shall be limited to the minimum extent and in case transfer is considered necessary in specific cases, such cases shall be submitted to the Hon'ble Chief

Minister without fail and transfer made after obtaining his approval.

(4) in a case where, prima facie, a complaint of serious nature is received against a Government servant and the head of the department is of the opinion that, prima facie, there is allegation and in such cases it is ascertained that charge memo-charge sheet has been issued to the Government servant or it is ascertained that permission has been given for his prosecution in a competent court of law."

A reading of the above clauses make it abundantly clear that due to special or exceptional reasons, transfer could be considered with the approval of the Chief Minister. It is also clear that, where a complaint of serious nature is received against a government servant or ascertained that the charge memo/charge sheet has been issued to the government servant or it is ascertained that the permission has been given for prosecution in a competent Court of law, the transfer could be considered beyond the period of General

Transfers. In the case on hand, the petitioner was posted to work as Tahsildar Grade-I to Bangarpet, Kolar District on 31.07.2024 and under the impugned transfer notification dated 31.12.2024, the petitioner is transferred to the Office of Deputy Commissioner, Kolar while posting 4th respondent in his place. No doubt, the transfer and posting of petitioner and respondent No.4 is premature. However, it is seen that Local MLA i.e., representative of people by his letter addressed to the Minister for Revenue dated 31.12.2024 sought transfer of the petitioner stating that the petitioner would not attend to office in time and he is not responding to the grievances of the public, which the local public have complained to the Local MLA. The said complaint is the basis for transfer of the petitioner as could be seen from Note-1 and 2 of the file relating to the Transfer Notification dated 31.12.2024.

14. The Hon'ble Apex Court in **MD.MASOOD AHMAD** (supra) was considering the transfer of a government servant at the instance of an MLA and the Hon'ble Apex Court at paragraphs 7 and 8 has held as follows:

"7. The scope of judicial review of transfer under Article 226 of the Constitution of India has been settled by the Supreme Court in Rajendra Rao vs. Union of India, National Hydroelectric Power Corpn. Ltd. vs. Shri Bhagwan, State Bank of India vs. Anjan Sanyal. Following the aforesaid principles laid down by the Supreme Court, the Allahabad High Court in Vijay Pal Singh vs. State of U.P. and Onkarnath Tiwari vs. The Chief Engineer, Minor Irrigation Deptt, has held that the principle of law laid down in the aforesaid decisions is that an order of transfer is a part of the service conditions of an employee which should not be interfered with ordinarily by a Court of law in exercise of its discretionary jurisdiction under Article 226 unless the Court finds that either the order is mala fide or that

the service rules prohibit such transfer, or that the authorities who issued the orders, were not competent to pass the orders.

8. Learned counsel for the appellant submitted that the impugned transfer order of the appellant from Muzaffarnagar to Mawana, District Meerut was made at the instance of an MLA. On the other hand, it has been stated in the counter- affidavit filed on behalf of respondents 1 and 2 that the appellant has been transferred due to complaints against him. In our opinion, even if the allegation of the appellant is correct that he was transferred on the recommendation of an MLA, that by itself would not vitiate the transfer order. After all, it is the duty of the representatives of the people in the legislature to express the grievances of the people and if there is any complaint against an official the State government is certainly within its jurisdiction to transfer such an employee. There can be no hard-and-fast rule that every transfer at the instance of an M.P. or MLA would be vitiated. It all depends on the facts & circumstances of an individual case. In the present case, we see no infirmity in the impugned transfer order.”

15. The Hon'ble Apex Court made it clear that when the people express their grievances before their representative, it is the duty of the representative of people to request for transfer of such government servant and the State Government, certainly within its jurisdiction, could transfer such a government servant. It is also made clear by the Hon'ble Apex Court transfer on the recommendation of MLA, by itself would not vitiate the transfer. In the above circumstances, we do not find any error or illegality in the order passed by the Tribunal. Moreover, in terms of Clause-5 (3) of Transfer Guidelines dated 25.06.2024, for special or exceptional reasons, transfer with the approval of the Chief Minister is permissible. In the instant case, the Note Sheet relating to transfer placed on record would indicate that the transfer of the petitioner is effected only after obtaining approval of the Chief Minister.

16. As could be seen from the records, the petitioner's transfer is not on the basis of earlier show-cause notice or his reply. Further the allegation of malice in law has no basis. In the facts and circumstances of the case, particularly in view of the fact that we have come to the conclusion that the transfer at the instance or recommendation of an MLA itself would not vitiate the transfer, the said contention is untenable. The decision relied upon by the petitioner in support of the said contention in **P.R.KULKARNI** (supra) would have no application to the facts of the present case. The petitioner also placed reliance on the decision of the Hon'ble Apex Court in **SARVESH KUMAR AWASTHI** (supra), whereunder, it is only an observation made during the course of issuance of notice to the respondent-State calling upon the respondent-State therein to place on record the necessary affidavit pointing out Rules and

Regulations for effecting transfer of Officers including the Higher Officers. Therefore, the said decision would have no application to the facts of the present case. The petitioner is working in a transferable post and he is liable for transfer. When the petitioner is posted within Kolar District, no hardship is caused to him.

17. For the reasons recorded above, there is no merit in the writ petition and accordingly, the writ petition stands rejected.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(K.V.ARAVIND)
JUDGE**