

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 407 OF 2019**

**DISTRICT:- JALGAON**

Sadhana W/o Umesh Borse @  
Sadhana D/o Subhash Pachpol,  
Age 19 years, Occu. at present Nil,  
R/o Shirsala, Tq Bodwad  
Dist. Jalgaon.

**.. APPLICANT**

**V E R S U S**

1. The State of Maharashtra,  
Through Secretary, Revenue  
and Forest Department,  
Mantralaya, Mumbai-32.
2. The District Collector, Jalgaon,  
District Jalgaon.
3. The Sub-Divisional Officer,  
Bhusawal Division, Bhusawal,  
Dist. Jalgaon.
4. Lata W/o Yogesh Patil,  
Age: 27 years, Occu. Household,  
R/o Warad (Kh), Tq. Bodwad,  
Dist. Jalgaon.
5. Tahsildar, Bodwad,  
District Jalgaon.

**.. RESPONDENT**

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APPEARANCE : Smt. Amruta Paranjape-Menezes, learned  
counsel for the applicant.

: Smt. Sanjivani Deshmukh-Ghate,  
learned Presenting Officer for the  
respondent Nos. 1 to 3 & 5.

: Shri Hemant P. Deshmukh, learned  
counsel for respondent No. 4.

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**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN**

**DATE : 30.03.2023**

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## **ORAL ORDER**

Heard Smt. Amruta Paranjape-Menezes, learned counsel for the applicant, Smt. Sanjivani Deshmukh-Ghate, learned Presenting Officer for respondent Nos. 1 to 3 & 5 and Shri Hemant P. Deshmukh, learned counsel for respondent No. 4.

2. The applicant by filing the present Original Application has challenged the appointment of respondent No. 4 on the post of Kotwal of village Shir sala, Tq Bodwad on the ground that though respondent No. 4 is not resident of the said village, which is the condition precedent for appointment on the post of Kotwal, respondents have illegally appointed the said respondent. The applicant also had applied for the said post along with the other candidates.

3. It is not in dispute that in order of merit respondent No. 4 stood first and accordingly was selected for to be appointed on the post of Kotwal. From the pleadings made in the application, it reveals that when the merit list was published the present applicant promptly made a complaint with the competent authorities alleging that respondent No. 4 is not resident of any of the villages in group and, as such, is not entitled for appointment on the subject post. The applicant had annexed certain documents along with her application.

4. Initially the complaint was considered by respondent No. 3, the Sub-Divisional Officer, Buldhana. Considering the facts before him and the documents placed on record before him, he rejected the objection so raised and disposed of the complaint dated 26.10.2018 filed by present applicant. Thereafter on 12.11.2018 the appointment came to be issued in favour of respondent No. 4. Aggrieved by the order so passed by respondent No. 3 and rejection of her objection by the Sub Divisional Officer, the applicant has approached this Tribunal by filing the present Original Application.

5. Learned counsel for the applicant took me through the various documents placed on record in order to buttress her contention that respondent No. 4 was not resident of any of the villages in the group for which she was appointed as Kotwal. Learned counsel submitted that the documents on record unambiguously show that after her marriage respondent No. 4 had shifted to her matrimonial village Warad and was residing there along with her husband and children, as well as, in laws. Learned counsel further submitted that village Warad is at the distance of about 25 km from village Shirsala. Learned counsel brought to my notice that name of respondent No. 4 is shown in the Voter's List of village Warad, and that her children are also

taking education at village Warad. The other record, which has been brought to my notice, reveals that in home visit done by the Health Worker, the information has come on record showing that all the time respondent No. 4 was residing at village Warad. Learned counsel submitted that neither on the date of making application for the post of Kotwal nor on the date of scrutiny of documents respondent No. 4 was the resident of village Shirsala and despite that the appointment has been issued in her favour. Learned counsel submitted that appointment, which is *ab initio* illegal and against the statutory provisions of law, cannot be sustained and, therefore, prayed for setting aside the said appointment.

6. The contentions raised in the O.A. and the prayers made therein have been opposed by the State authorities, as well as, respondent No. 4. State authorities and respondent No. 4 both have filed their affidavits in reply. In the affidavit in reply, submitted on behalf of the State authorities, it has been contended that respondent No. 4 has placed on record all necessary documents in respect of her contention that she is resident of village Shirsala, Tq Bodwad Dist. Jalaon, which included the certificate issued by the then Gram Sevak, as well as, Talathi certifying that respondent No. 4 is residing at village

Shirsala. Respondent No. 4 has also placed on record her Adhar Card, wherein also address of village Shrsala is noted.

7. According to the State authorities, from documents which were produced on record before S.D.O., *prima facie*, it was established that respondent No. 4 is resident of village Shirsala and in the circumstances objection raised by the present applicant was rejected and the appointment was issued in favour of respondent No. 4. Respondent No. 4 in her affidavit in reply had refuted all the allegations and come out with the case that though after her marriage she was residing at village Warad (Kh), after the death of her father in the year 2018 she had come to village Shirsala to reside along with her mother and since then she is residing at village Shirsala. It is also contended that respondent No. 4 has already applied for deleting her name from the Voter List of village Warad (Kh). It is further contended that she is permanently residing at village Shirsala and, as such, objections are denied.

8. After having considered the submissions advanced by learned counsel appearing for the applicant and submissions made on behalf of the State authorities, as well as, respondent No. 4 and after having gone through the documents filed on record, two questions fall for my consideration, first whether the

application submitted by the present applicant seeking cancellation of appointment of respondent No. 4 is liable to be considered in absence of any consequential prayer made in the application for her appointment on the said post? and as such whether the applicant can be held to be aggrieved person to file O.A. before this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

9. I deem it appropriate to reproduce the relevant portion of Section 19 of the Administrative Tribunals Act, 1985, which reads thus:-

**“19. Applications to tribunals.—**(1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.

10. Reading of the aforesaid provision would mean that an application for redressal of grievance can be filed only by a ‘person aggrieved’ within the meaning of the Act. Tribunals are constituted under Article 323(A) of the Constitution of India. The above Article empowers Parliament to enact law providing for adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public service and posts in connection with the affairs of the Union or of any State and to

specify the jurisdiction, powers and authority which may be exercised by each of the said Tribunals. Thus, it follows that Administrative Tribunals are constituted for adjudication or trial of the disputes and complaints with respect to recruitment and conditions of service of persons appointed to public service. Jurisdiction and powers of the Tribunals are well defined in the Act. These Tribunals did not enjoy any plenary powers.

11. Section 19 of the Administrative Tribunals Act permits an aggrieved person only to approach the Tribunal under the Administrative Tribunals Act. An application which does not disclose any grievance of the applicant that requires to be redressed by the Tribunal, is liable to be dismissed. A person is said to be aggrieved if his rights have been violated by an order pertaining to any matter within the jurisdiction of the Tribunal. In the present matter the applicant has nowhere pleaded that she is aggrieved person. It is not the case of the applicant that because of illegal appointment of respondent No. 4 her right to be appointed on the said post has been taken away. In the O.A. the applicant has also not disclosed as to why for she is seeking quashment of the order appointing respondent No. 4 as Kotwal. The applicant has also not disclosed as to which of her rights

have been violated because of the order dated 12.11.2018 which she has challenged in the present O.A.

12. Learned counsel for the applicant sought to contend that in the O.A. the applicant has mentioned that she was one of three shortlisted candidates along with respondent No. 4. The applicant at this juncture has sought leave to place on record one document demonstrating that the Sub-Divisional Officer, Bhusawal, had published the final select list, wherein the name of respondent No. 4 is mentioned as selected candidate and in the final waiting list sole name of applicant is shown. Learned counsel tried to urge that from the document as aforesaid it is quite obvious that in the select list the applicant was at Sr. No. 2 and if the appointment of respondent No. 4 is set aside it's normal consequence will be to direct the respondents to issue appointment in favour of the applicant.

13. I am however, not convinced with the submissions so made. No plausible reason is given by the applicant as to why along with O.A. the applicant did not produce the final select list, wherein according to her claim, she was shown at Sr. No. 2. It is also not explained as to when such was the situation why in the O.A. there is no averment that because of the wrong selection of respondent No. 4, the legitimate right of the



applicant to be appointed on the post of Kotwal has been taken away. Most importantly the applicant has not claimed any consequential relief for her appointment on the post of Kotwal in the event the appointment of respondent No. 4 on the said post is cancelled by the Tribunal. The O.A. has been filed by the applicant seeking following reliefs: -

*“B. That the order of appointment of respondent No. 4 dated 12.11.2018 appointing respondent No. 4 as ‘Kotwal’ for the Shirsala Sija, passed by the respondent No. 3 may kindly be quashed and set aside.*

*C. That the order dated 03.11.2018 passed by respondent No. 3 rejecting the representation preferred by the applicant may kindly be quashed and set aside and respondent No. 3 may kindly be directed to conduct fresh enquiry by calling records from the respective government departments with a view to ascertain the present residential status of the respondent No. 4;*

*D. Any other equitable and appropriate relief to which the applicant is found due and entitled in the facts and circumstances of the case may kindly be granted in favour of the applicant.”*

14. The facts which are not pleaded, no evidence in support of such facts, can be permitted to be produced on record. In the circumstances, neither the document sought to be produced on record at this juncture can be taken into account, nor the oral submissions made that impliedly it is to be held that applicant being the next meritorious candidate, was and is claimant of the post of Kotwal of village Shirsala in the event of quashment of

the order issued in favour of respondent No. 4, can be considered. Moreover, the document sought to be produced on record is not authenticated copy. It has been sought to be produced on record at the fag end of the trial when the pleadings are completed, arguments are over and the matter is for orders. The applicant has not given any explanation as to why the document as aforesaid was not produced along with the O.A. and why the select list, wherein according to the contention of the applicant, three candidates were shortlisted is also not produced.

15. In absence of the necessary pleadings, necessary documents and above all in absence of any prayer by the applicant seeking consequential relief for her appointment on the subject post, it is difficult to hold that the applicant is aggrieved person and, as such, application so filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, cannot be entertained. The application filed with the only prayer for quashment of the order of respondent No. 4 thus, amounts to Public Interest Litigation (PIL) and it is well settled that PIL in respect of service matters are inadmissible.

16. Secondly, it appears to me that even on merits it was difficult to accept the contentions raised by the applicant in the form of objections to the appointment of respondent No. 4. The

condition that the person to be appointed on the post of Kotwal must be a resident of the said village or of any of the village in the said group for which the appointment is to be made, is included with an object that the person concerned must be available to the villagers having regard to the nature of duties to be performed by such person. The said contention cannot be interpreted to mean that the person concerned shall undoubtedly prove that he or she is residing in the said village. In the instant matter, it has come on record that respondent No. 4 is originally resident of village Shirsala being her parental village. It is true that after marriage respondent No. 4 had gone to reside at her matrimonial house at village Warad, which is at the distance of about 25 kms from village Shirsala, however, as has been contended by respondent No. 4, after the death of her father she has returned to village Shirsala to reside with her mother. The Talathi and Gramsevak of the village have issued the certificates in favour of respondent No. 4 certifying that she is the resident of village Shirsala, relying on which the learned Sub Divisional Officer has rejected the objection raised by the applicant. It may be true that the children of respondent No. 4 are taking education at Warad, however, on that basis it cannot be concluded that respondent No. 4 is residing at village Warad and not at village Shirsala. Insofar as objection as regards the

name of respondent No. 4 in the voters' list of village Warad is concerned, respondent No. 4 has explained that she has applied for deletion of her name from the voters' list of village Warad. Apart from all these objections, it is significant to note that though respondent No. 4 has been appointed on the post of Kotwal in the year 2018, in the present O.A. the applicant has not brought on record any such instance demonstrating that during the period of last four years i.e. from 2018 to 2022 complaints are made to the effect that respondent No. 4 does not become available to the villagers in connection to their work. Had there been such instances, the applicant would not have missed the said opportunity to bring on record all such complaints and instances by way of amendment claiming the same to be subsequent events material for decision of the O.A. In the circumstances, even on merits it does not appear to me that there is any case for the applicant.

17. For the aforesaid reasons the O.A. fails and is accordingly dismissed however, without any order as to costs.

**VICE CHAIRMAN**