

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 789 OF 2018**

DIST. : NANDURBAR

Vesti Satya Valvi, )  
Age. 32 years, Occu. Nil, )  
R/o Velkhedi, Tq. Akrani, )  
District - Nandurbar. ) -- APPLICANT

**VERSUS**

1. The State of Maharashtra, )  
Through its Secretary, )  
Home Department, Mantralaya, )  
Mumbai - 32. )
2. The Divisional Commissioner, )  
Nashik Division, Nashik. )
3. Virsing Ferangya Naik, )  
Age. 30 years, Occ. Nil, )  
R/o Velkhedi, Tq. Akrani, )  
Dist. Nandurbar. )
4. The Collector, Nandurbar, )  
Dist. Nandurbar. )
5. The Sub Divisional Magistrate, )  
Shahada Sub Division, Shahada, )  
Dist. Nandurbar. ) -- RESPONDENTS

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APPEARANCE :- Shri Amit Savale, learned Advocate for the  
applicant.  
: Smt. Sanjivani Deshmukh Ghate, learned  
Presenting Officer for the respondent nos.  
1, 2, 4 & 5.  
: None appears for respondent no. 3 though  
duly served.

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**CORAM : Hon'ble Shri B.P. Patil, Acting Chairman**  
**RESERVED ON : 17<sup>th</sup> January, 2020**  
**PRONOUNCED ON : 21<sup>st</sup> January, 2020**  
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**ORDER**

1. By filing the present Original Application the applicant has challenged the recruitment process of the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar held in pursuance of advertisement dtd. 23.7.2018 and prayed to quash & set aside the appointment order issued in favour of the respondent no. 3 as a Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar and also prayed to appoint him as a Police Patil of the said village.

2. Applicant is resident of village Velkhedi, Tq. Akrani, Dist. Nandurbar. He has passed S.S.C. examination. Respondent no. 5 issued the advertisement on 23.7.2018 inviting the applications from the aspiring candidates for appointment on the post of Police Patil of different villages within the Sub Division Shahada, Dist. Nandurbar including the village Velkhedi, Tq. Akrani, Dist. Nandurbar. In response to the said advertisement the applicant, respondent no. 3 and others have filed their applications for appointment on the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar. Written test of all the eligible candidates was conducted on 2.9.2018. The result of the written examination was to be declared on 4.9.2018 as per schedule. Meanwhile elections of Gram Panchayats of Nandurbar District were declared and code of conduct was brought in force. Therefore the results of

the written examination were kept in hold till completion of elections work. After completion of elections of Gram Panchayats, the result of written examinations was declared and the schedule for oral interview was published on the website. Accordingly the applicant, respondent no. 3 and other candidates appeared for the oral interview on 5.10.2018. The respondent no. 5 without declaring the final result of the written examination and oral interview appointed the respondent no. 3 as a Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar by issuing appointment order. It is his contention that the respondent no. 3 has four living children, which are born to him after 31.12.2005, which invalidates his candidature. It his contention that the respondent no. 5 has not considered the said aspect while appointing the respondent no. 3 as a Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar.

3. It is his contention that his father-in-law was serving as a Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar. But the said aspect has not been considered by the respondents while declaring the result. It is his contention that the entire recruitment process conducted by the respondent no. 5 is against the G.Rs. and rules. Therefore he has challenged the recruitment process as well as the appointment of respondent no. 3 on the

post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar.

4. Respondent nos. 1, 2, 4 and 5 have filed their affidavit in reply and resisted the contentions of the applicant. They have admitted the fact that the respondent no. 5 issued the advertisement inviting the applications of eligible candidates for appointment on the post of Police Patil of different villages in sub Division Shahada including the village Velkhedi, Tq. Akrani, Dist. Nandurbar. They have admitted the fact that the applicant, respondent no. 3 and others applied for the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar and they appeared for the written examination held on 2.9.2018. It is their contention that the State Election Commission, Maharashtra has issued a letter dtd. 31.8.2018 and implemented the code of conduct in Nandurbar District and therefore the result of written examinations was not declared on the scheduled date i.e. on 4.9.2018. After Completion of elections the result of the written examination was declared and the eligible candidates were called for oral interview. Accordingly a notification was published on the website on 29.9.2018 as well as on the notice board of the office. Oral interviews were conducted on 5.10.2018 and 6.10.2018 so far as Tq. Akrani, Dist. Nandurbar is concerned. The result of the

written examination, oral interview and select list has been published on 6.10.2018 on the website as well as on the notice boards of the respondent no. 5 and Tahsildar, Akrani. Respondent no. 3 had submitted his affidavit stating that he has only one child. On the basis of the said affidavit and the marks secured by him, the respondent no. 5 declared the respondent no. 3 as a selected candidate and issued appointment order in his favour. It is their contention that in the written examination the applicant secured 39 marks, while the respondent no. 3 secured 53 marks. So also in the oral interview the applicant secured 8 marks, while the respondent no. 3 secured 9 marks. Applicant secured 47 marks in aggregate, whereas the respondent no. 3 secured 62 marks in aggregate. Thus the respondent no. 3 stood first in merit and therefore he has been declared as selected candidate & has been appointed as a Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar. It is their contention that the entire recruitment process has been conducted by the respondent no. 5 in accordance with the G.Rs. and rules and there is no illegality in it. The enquiry regarding children of the respondent no. 3 is pending with the Naib Tahsildar, Akrani. Therefore, there is no illegality in the recruitment process and therefore they prayed to reject the O.A.

5. I have heard the arguments advanced by Shri Amit Savale, learned Advocate for the applicant and Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondent nos. 1, 2, 4 & 5. None appears for respondent no. 3, though duly served and no affidavit in reply is filed on his behalf. I have also gone through the documents placed on record.

6. Admittedly on 23.7.2018 the respondent no. 5 issued an advertisement / notification inviting the applications from the aspiring candidates for appointment on the post of Police Patil of different villages within the Sub Division Shahada, Dist. Nandurbar including the village Velkhedi, Tq. Akrani, Dist. Nandurbar. Admittedly the applicant, respondent no. 3 and others had filed their applications for appointment on the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar. They appeared for the written examination scheduled on 2.9.2018. The result of the written examination was to be declared on 4.9.2018 as per schedule. Admittedly in the meanwhile elections of Gram Panchayats of Nandurbar District were declared and code of conduct was brought in force. Therefore the result was put on hold and it was declared after completion of election. Admittedly, the applicant secured 39 marks in the written examination, while the respondent no. 3 secured 53 marks. They were called for oral

interview scheduled on 5.10.2018 and 6.10.2018 so far as Tq. Akrani, Dist. Nandurbar is concerned. In the oral test the applicant secured 8 marks, while the respondent no. 3 secured 9 marks. Admittedly, the result of the written examination, oral interview and select list has been published on 6.10.2018 on the website as well as on the notice boards of respondent no. 5 and Tahsildar, Akrani. Admittedly, the respondent no. 3 secured 62 marks in aggregate, while the applicant secured 47 marks in aggregated. Admittedly, the respondent no. 3 stood first in merit and therefore he was declared as selected candidate for appointment on the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar.

7. Learned Advocate for the applicant has submitted that the respondent no. 5 had not conducted the recruitment process as per the rules. He has submitted that the respondent no. 3 had four children and therefore he was ineligible for appointment on the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar. He has submitted that the respondent no. 5 had not considered the said aspect while appointing the respondent no. 3 on the post of Police Patil. Therefore the appointment of respondent no. 3 on the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar is not in accordance with rules and it is

illegal. Therefore he prayed to quash the appointment order of respondent no. 3 on the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar by allowing the present O.A.

8. He has argued that the respondents have admitted the fact that the enquiry regarding children of the respondent no. 3 is pending with the Naib Tahsildar, Akrani. The respondents ought to have decided that enquiry first and thereafter appointed the respondent no. 3 on the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar. But the respondent no. 5 had not followed the due procedure and therefore he prayed to quash the impugned appointment order of respondent no. 3.

9. Learned Presenting Officer has submitted that after conducting the oral test the result of written examination, oral interview and final select list has been declared by the respondent no. 5 on 6.10.2018 on the website. Respondent no. 3 secured 62 marks in aggregate, while the applicant secured 47 marks in aggregate. Respondent no. 3 stood first in merit and therefore he was declared as selected candidate. Respondent no. 3 submitted the affidavit along with application stating that he has only one child and therefore on the basis of the said affidavit the appointment order has been issued in his favour. She has submitted that the enquiry regarding children of the respondent



no. 3 is pending with the Naib Tahsildar, Akrani and after conclusion of the said enquiry appropriate decision will be taken in respect of the respondent no. 3. She has argued that there is no illegality in the recruitment process and appointment of respondent no. 3 on the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar. Therefore, she prayed to reject the O.A.

10. On perusal of documents, it reveals that the applicant, respondent no. 3 and others participated in the recruitment process for the post of Police Patil of village Velkhedi, tq. Akrani, Dist. Nandurbar. They appeared for written examination held on 2.9.2018 as well as oral interview conducted on 5.10.2018. In the written examination the applicant secured 39 marks while the respondent no. 3 secured 53 marks. In the oral interview the applicant secured 8 marks, while the respondent no. 3 secured 9 marks. Applicant secured 47 marks in aggregate, whereas the respondent no. 3 secured 62 marks in aggregate. As the respondent no. 3 secured highest marks he was declared as selected candidate for appointment on the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar. Respondent no. 3 submitted affidavit regarding his children and stated that he has only one child. On the basis of the said affidavit the respondent no. 3 declared him as selected candidate as he secured highest

marks and issued appointment order accordingly. I find no illegality in the said process conducted by the respondent no. 5.

11. Grievance of the applicant is regarding children of the respondent no. 3. Applicant has come with a vague plea that the respondent no. 3 has four children and this aspect has not been considered by the respondents while giving appointment to the respondent no. 3 on the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar. Entire pleading of the applicant does not disclose as to whether he raised any grievance in that regard by filing any application before the respondents before declaration of final select list and before issuing appointment order in favour of respondent no. 3. Had it been the fact that the applicant raised objection by filing written application before the respondent no. 5 regarding children of the respondent no. 3 before declaration of the final select list then in that case it was incumbent on the respondents to decide the said objection before declaring the final select list and before issuing the appointment order in favour of the respondent no. 3. There is nothing on record to show that the applicant raised any objection in that regard before the respondents before declaration of final select list and before issuing appointment order in favour of the respondent no. 3. No doubt, the enquiry regarding children of the respondent no. 3 is

pending with the Naib Tahsildar, Akrani. If in the said enquiry it found that the respondent no. 3 has more children than the prescribed limit as per the rules, then his appointment will be cancelled as per the rules. The respondent no. 5 being appointing authority can pass order regarding removal of the respondent no. 3 from the post of Police Patil, as per rules. But in absence of any document to show that the said enquiry was pending at the time of declaring the final select list and issuing appointment order in favour of respondent no. 3, it cannot be said that the respondent no. 5 illegally appointed the respondent no. 3 on the post of Police Patil. Therefore, I find no illegality in the entire recruitment process & in the appointment of respondent no. 3 on the post of Police Patil of village Velkhedi, Tq. Akrani, Dist. Nandurbar. Hence, no interference is called for in it. There is no merit in the O.A. Consequently it deserves to be dismissed.

12. In view of the discussion in foregoing paragraphs, the Original Application stands dismissed. There shall be no order as to costs.

**(B.P. PATIL)**  
**ACTING CHAIRMAN**

**Place : Aurangabad**  
**Date : 21<sup>st</sup> January, 2020**