

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 876 OF 2019
WITH
ORIGINAL APPLICATION NO. 916 OF 2019
(Subject – Police Patil)**

1. ORIGINAL APPLICATION NO. 876 OF 2019

DISTRICT : AURANGABAD

Ishwar s/o Jotmal Chavan,)
Age : 36 years, Occu. : Service as Police Patil,))
(At present appointment cancelled))
R/o. Ghanegaon Tanda, Tq. Soygaon,)
District - Aurangabad.)

.. APPLICANT

V E R S U S

- 1) **The State of Maharashtra,**)
Through : Secretary,)
Home Department,)
Mantralaya, Mumbai- 32.)
- 2) **The Sub-Divisional Officer,**)
Sillod, Dist. Aurangabad.)
- 3) **Sandip S/o Kailash Patil,**)
Age – 31, Occu. : Agril,)
R/o. Ghanegaon, Tq. Soygaon,)
Dist. Aurangabad.)

.. RESPONDENTS

W I T H

2. ORIGINAL APPLICATION NO. 916 OF 2019

DISTRICT : AURANGABAD

Sandeep s/o Kailas Patil,)
Age : 31 years, Occu. : Agri.,)
R/o. Ghanegaon Tanda, Tq. Soegaon,)
District - Aurangabad.)

.. APPLICANT

V E R S U S

- 1) **The State of Maharashtra,**)
Through : Secretary,)
Home Department,)
Mantralaya, Mumbai- 32.)
- 2) **The Sub-Divisional Officer,**)
Sillod, Tq. Sillod, Dist. Aurangabad.)
- 3) **Ishwar S/o Jotmal Chavan,**)
Age – 30, Occu. : Agri.,)
R/o. Ghanegaon Tanda, Tq. Soygaon,))
Dist. Aurangabad.)

.. RESPONDENTS

APPEARANCE : Shri K.B. Jadhav, Advocate for the Applicant in
O.A. No. 876/2019/Respondent No. 3 in O.A.
No. 916/2019.

: Shri S.R. Sapkal, Advocate for applicant in
O.A. No. 916/2019/ Respondent No. 3 in O.A.
No. 876/2019

: Shri N.U. Yadav, Presenting Officer for
Respondent Nos. 1 and 2 in both the O.As.

CORAM : **SHRI BIJAY KUMAR, MEMBER (A).**

DATE : **01.10.2021.**

O R D E R

1. As the O.A. No. 876/2019 and O.A. No. 916/2019 arise out of the same subject matter of appointment to the post of Police Patil, Village- Ghanegaon Tanda, Taluka- Soygaon, Dist. Aurangabad and the two Original Applications are counter-

claimants for the post, a common order is being passed with consent of the contesting parties in the two Original Applications.

2. The Original Application No. 876/2019 has been filed by one Shri Ishwar Jotmal Chavan (respondent no. 3 in O.A. No. 916 of 2019), on 23.09.2019 invoking provisions of Section 19 of the Administrative Tribunals Act, 1985, being aggrieved by the impugned order passed by the respondent No. 2 i.e. the Sub-Divisional Officer, Sillod, Tq. Aurangabad on 02.08.2019, by which the appointment order issued on 14.08.2017 in favour of the applicant for the post of Police Patil of Village Ghanegaon Tanda, Tq. Soygaon, Dist. Aurangabad had been cancelled.

3. The Original Application No. 916/2019 has been subsequently filed by one Shri Sandeep Kailas Patil (respondent no. 3 in O.A. No. 876 of 2019), on 07.10.2019 U/s 19 of the Administrative Tribunals Act, 1985, being aggrieved by the impugned order of the Sub-Divisional Officer, Sillod, Tq. Aurangabad dated 26.08.2019, whereby the learned Sub-Divisional Officer, Sillod, Dist. Aurangabad has determined that the applicant Shri Sandeep Kailas Patil is not a resident of village Ghanegaon Tanda, but he is a resident of village Ghanegaon, Tq. Soygaon, Dist. Aurangabad.

4. It may be noticed that in the two O.A's., Secretary, Home Department, Government of Maharashtra and the Sub Divisional Officer, Silldo, Dist. Aurangabad are common respondent Nos. 1 and 2 respectively. However, in O.A. No. 876/2019 filed by Shri Ishwar Jotmal Chavan, Shri Sandeep Kailas Patil is respondent No. 3 and likewise in O.A. No. 916/2019 filed by Shri Sandeep Kailas Patil, Shri Ishwar Jotmal Chavan is the respondent No. 3.

5. Brief background facts of the matters are as follows:-

(a) Respondent No. 2, the Sub-Divisional Officer, Sillod, Dist. Aurangabad issued an advertisement on 01.02.2016 for filling up vacancies for the post of Police Patil in villages of Sillod Sub-Division which included the post of police patil for the village of Ghanegaon Tanda, Tq. Soygaon. As per the eligibility criteria for the post, as notified by the said advertisement, the candidate for the post of Police Patil should be local and permanent resident of the village where he will be appointed as Police Patil. To quote the relevant part of the advertisement which is in Marathi language, for the purpose of accuracy –

“3. अर्जदार संबंधित गावाचा स्थानिक व कायमचा रहिवासी असावा. तसेच त्याची किंवा त्याच्या कुटुंबातील व्यक्तीची संबंधीत गावात स्थावर मालमत्ता असावी.”

(b) Both the applicants in O.A. No. 876/2019 and O.A. No. 916/2019 were candidates in the selection in the selection process for the post of Police Patil, Village Ghanegaon Tanda, Tq. Soygaon, Dist. Aurangabad.

(c) Applicant in O.A. No. 876/2019 (Respondent No. 3 in O.A. No. 916/2019) viz. Shri Ishwar Jotmal Chavan scored only 61 marks in selection test, whereas the applicant in O.A. No. 916/2019 (Respondent No. 3 in O.A. No. 876/2019) viz. Shri Saneep Kailas Patil scored 77 marks. However, the learned Sub-Divisional Officer, Sillod selected Shri Ishwar Jotmal Chavan for the said post after determining that Shri Sandeep Kailas Patil was not the local and permanent resident of village Ghanegaon Tanda, who was determined to be local and permanent resident of village Ghanegaon. Accordingly, appointment letter dated 06.04.2016 was issued in favour Shri Ishwar Jotmal Chavan, the applicant in O.A. No. 876/2019 (Respondent No. 3 in O.A. No. 916/2019).

(d) Being aggrieved by the said order of appointment for the post of village of Police Patil, village Ghanegaon Tanda, dated 06.04.2016, issued in favour of Shri Ishwar Jotmal

Chavan, the applicant in O.A. No. 876/2019 (respondent No. 3 in O.A. No. 916/2019), the other candidate Shri Sandeep Kailas Patil, the applicant in O.A. No. 916/2019 (respondent no. 3 in O.A. No. 876/2019) filed O.A. No. 222/2016 before the Tribunal. The Tribunal observed as follows:-

“6. From the communication dated 21.3.2016 issued by Sub-Divisional Officer, Sillod, it seems that the selection of the applicant to the post of Village Police Patil has been rejected on the following grounds: -

- “१. अर्जमध्ये आपण सर्व ठिकाणी घाणेगाव च्या पुढे तांडा हा शब्द नंतर लिहिलेला आहे. (घाणेगाव तांडा)
२. ग्रामसेवकाचे रहिवासी प्रमाणपत्रात देखील तांडा हा शब्द नंतर वेगळ्या शार्ईने लिहीला असल्याचे स्पष्ट होते. घाणेगाव (तांडा)
३. सिनियर कॉलेज, संत ज्ञानेश्वर महाविद्यालय, सोयगांव जि. औरंगाबाद टी.सी. क्रमांक १२४१, दिनांक ०८ जुलै, २००९ वर जन्म स्थळ गावाचे नांव “घाणेगाव” असे नमूद आहे.
४. शिवाजी माध्यमिक व उच्च माध्यमिक विद्यालय, सावळदबारा ता. सोयगांव जि. औरंगाबाद शाळा सोडल्याचे प्रमाणपत्र क्रमांक ७५, दिनांक ०५ जुन २००६ वर देखील जन्मस्थळ “घाणेगाव” नमूद आहे.
५. तहसिलदार सोयगांव यांचे रहिवासी प्रमाणपत्र [जा.क्र. २००८/संकीर्ण/कावि/ ५२९](#), दिनांक १४.०३.२००८ वर उमेदवाराचा रहिवास हा “घाणेगाव” असल्याचे नमुद आहे. दि. (१४.०३.२००८) व गेल्या १५ वर्षांपासून तिथलेच रहिवासी असल्याचे नमूद आहे.”

7. From the perusal of the aforesaid letter, it seems that the Sub-Divisional Officer, Sillod Dist. Aurangabad, has considered the documents submitted by the applicant. It is not known as to how the Sub-Divisional Officer, has come to the conclusion that the word "Tanda" has been added subsequently in the documents pertaining to the resident of the applicant as stated at Sr. Nos. 1 & 2 above. It seems that the Sub-Divisional Officer has not made any enquiry except scrutinizing the documents. There is no reference to the Election Commissions Identity Card submitted by the applicant at Annexure "A-1", from which it seems that the applicant is resident of village Ghanegaon Tanda, Tq. Soyagaon. The said Identity Card is of the year 2007. Residential Certificate issued by the Grampanchayat, Ghanegaon, also shows that the applicant's residence is Ghanegaon Tanda. The property card in form No. 8 for the year 2011-12 also shows open land owned by the applicant at Ghanegaon Tanda and similarly the 7/12 extract of land gut No. 78 shows that he is owner of that land, which is situated at Ghanegaon Tanda. These documents are not considered by the learned Sub-Divisional Officer, Sillod. In my opinion learned Sub-Divisional Officer ought to have made detailed enquiry as to whether Ghanegaon & Ghanegaon Tanda are two different villages and if yes what is exact distance between these two villages. The Sub Divisional Officer ought to have recorded the statement of the villages to

get it confirmed as to whether the applicant is really resident of village Ghanegaon Tanda and whether he is conversant with the public and public life in that village and for that purpose detailed enquiry was required to be made by the respondent No. 2. It seems that such enquiry is not made by the Sub-Divisional Officer and, therefore, merely saying that some documents show that word "Tanda" has been included subsequently in the document is not sufficient to come to the conclusion that the applicant is not resident of village Ghanegaon Tanda.

8. In view of the discussion in foregoing paragraphs, I am satisfied that the Sub Divisional Officer, Sillod has not made proper enquiry and, therefore, the impugned communication dated 21.3.2016 on the basis of incomplete enquiry cannot be accepted to be true."

(e) After making above quoted observations, this Tribunal passed the following order in O.A. No. 222/2016, dated 20.12.2016:-

"(i) The present Original Application is partly allowed.

(ii) The respondent No. 2, Sub-Divisional Officer, Sillod, Tq. Sillod, Dist. Aurangabad, is directed to make detailed enquiry as stated in the aforesaid paras as regards residential proof of the applicant

and see as to whether the applicant is well conversant with the public and ground situation of village, Ghanegaon Tanda, and thereafter shall pass necessary order as regards selection / non-selection of the applicant for the post of Village Police Patil of village Ghanegaon Tanda, Tq. Soyegaon, Dist. Aurangabad. Such enquiry shall be completed within a period of one month from the date of this order.

(iii) If in the enquiry it is found that the applicant is resident of village Ghanegaon Tanda and he is well conversant with the ground situation and with the public at Ghanegaon Tanda, he be appointed accordingly.

(iv) Respondent No. 2 is further directed that whatever decision taken in the enquiry shall be communicated to the applicant in writing by RPAD immediately after the enquiry is completed.

(v) In the facts and circumstances of the present case, there shall be no order as to costs.”

(f) Pursuant to the order passed by this Tribunal in O.A. No. 222/2016, the Sub Divisional Officer, Sillod conducted detailed enquiry and decided on 20.07.2017 as follows:-

“आदेश

9. स्थानिक चौकशी अहवालानुसार व शैक्षणिक पुराव्यानुसार श्री. संदिप कैलास पाटील हे घाणेगांव येथील कायम रहिवासी असल्याचे सिद्ध होते. तसेच श्री ईश्वर ज्योतमल चव्हाण हे घाणेगांव तांडा येथील कायम रहिवासी असल्याचे सिद्ध होते.

२. पोलीस पाटील घाणेगांव तांडा ता. सोयगांव या पदावर निवड झालेले श्री ईश्वर ज्योतमल चव्हाण हे मौजे घाणेगांव तांडा येथील रहिवासी असल्यामुळे त्यांची घाणेगांव येथील पोलीस पाटील पदावर झालेली निवड योग्य ठरविण्यात येते.
३. प्रकरणात पोलीस पाटील घाणेगांव तांडा चे स्थगिती आदेश पुनस्थापीत करावे.
४. सर्व संबंधितांना कळवून प्रकरण बंद करून संचिका अभिलेख कक्षात वर्ग करा.”

(g) The Sub Divisional Officer, Sillod, thereafter, based on in detailed enquiry report dated 20.07.2017, passed order dated 14.08.2017 confirming appointment of Shri Ishwar Jotmal Chavan, (applicant in O.A. No. 876/2019) on the post of Police Patil, Ghanegaon Tanda and reposted him on the post of Police Patil by vacating the stay order granted by him vide his order dated 01.04.2016. Accordingly, Shri Ishwar Jotmal Chavan joined on the post of Police Patil, village Ghanegaon Tanda.

(h) Being aggrieved by the order of the Sub-Divisional Officer, Sillod, Tq. Aurangabad dated 20.07.2017, Shri Sandeep Kailas Patil, (applicant in O.A. No. 916/2019 and respondent No. 3 in O.A. No. 876/2019), filed yet another O.A. No. 667/2017 before this Tribunal challenging the said order of Sub-Divisional Officer, Sillod, Tq. Aurangabad. The Tribunal passed order dated 03.07.2019 in O.A. No. 667/2017, by which the order passed by the Sub-Divisional

Officer, Sillod, Dist. Aurangabad dated 20.07.2017 was quashed and set aside and the respondent No. 2, the Sub-Divisional Officer, Sillod was ordered to make fresh enquiry. The order passed by the Tribunal in O.A. No. 667/2017 is being reproduced below in toto for ready reference:-

“ Heard Shri S.A. Gaikwad, learned Advocate for the Applicant and Shri D.R. Patil, learned Presenting Officer for the Respondents.

2. On perusal of record it reveals that the Sub Divisional Officer, Sillod had not conducted the proper enquiry so as to ascertain the residence of the Applicant though this Tribunal has specifically directed to S.D.O., Sillod to make detailed enquiry while deciding the O.A.No.222 of 2016.

3. The S.D.O. has simply visited the village and prepared panchanama of open plot. On the basis of it, finding regarding the residence of the Applicant has been recorded. The manner in which the S.D.O. conducted the enquiry is not proper and legal. Therefore, the impugned order requires to be quashed and set aside.

4. Learned P.O. for the Respondents has submitted that the present S.D.O., Sillod will make detailed enquiry as directed by this Tribunal in O.A.No.222 of

2016 in case matter is remanded back and therefore, he prayed to direct S.D.O., Sillod accordingly.

5. Learned Advocate for the Applicant has also submitted that the Applicant has no objection to remand the matter to the S.D.O. Sillod for making detailed enquiry as directed by this Tribunal while deciding the O.A.No.222/2016. He prayed to direct the S.D.O., Sillod to conduct the enquiry within stipulated time.

6. In view of the aforesaid submissions made by the learned Advocate and learned P.O., it is just to quash and set aside the impugned order dated 20.07.2017 and to direct the S.D.O., Sillod to make enquiry afresh regarding residence of the Applicant as per the direction given by this Tribunal in O.A.No.222 of 2016.

7. In view of the above, Original Application stands allowed. The impugned order dated 20.07.2017 passed by the S.D.O., Sillod is hereby quashed and set aside. Shri Pandurang Kulkarni, S.D.O., Sillod, Dist. Aurangabad is directed to make enquiry afresh in view of the directions given by this Tribunal in O.A.No.222 of 2016 within two months from the date of this order as regards residence of the Applicant by giving an opportunity of hearing to the Applicant and to the private respondent. No order as to costs.”

- (i) Pursuant to the order of the Tribunal in O.A. No. 607/2017 dated 03.07.2019, the Sub-Divisional Officer,

Sillod, Dist. Aurangabad first passed an order on 02.08.2019 cancelling appointment of Shri Ishwar Jotmal Chavan as Police Patil of village Ghanegaon Tanda. The order in Marathi is being reproduced below for ready reference:-

“आदेश -

ज्याअर्थी संदर्भिय क्र.०१ अन्वये मा. महाराष्ट्र प्रशासकीय न्यायाधिकरण खंडपीठ, औरंगाबाद यांनी मूळ अर्ज क्रमांक २२२/२०१६ मध्ये दिलेल्या आदेशानुसार प्रकरणात सुनवानणी घेऊन आदेश पारीत करण्यात आलेले आहे.

ज्याअर्थी संदर्भिय क्र.०२ अन्वये दिनांक २०.०७.२०१७ रोजी पारीत केलेल्या आदेशानुसार श्री. ईश्वर जौतमल चव्हाण, रा. घाणेगांव तांडा ता. सोयगांव यांनी पोलीस पाटील घाणेगांव तांडा ता. सोयगांव या पदाचे नियुक्ती आदेश निर्गमित करण्यात आलेले आहे.

ज्याअर्थी संदर्भिय क्र.०३ अन्वये मा. महाराष्ट्र प्रशासकीय न्यायाधिकरण खंडपीठ, औरंगाबाद यांनी या कार्यालयाचे उक्त संदर्भिय क्र.०१ चे आदेश रद्द केलेले आहे.

त्याअर्थी, संदर्भिय क्र.०२ अन्वये श्री ईश्वर जौतमल चव्हाण, यांना पोलीस पाटील, घाणेगांव तांडा ता. सोयगांव या पदावर देण्यात आलीले नियुक्ती आदेश या आदेशान्वये रद्द करण्यात येत आहे.”

(j) The learned Sub-Divisional Officer, Sillod in pursuance of the order of the Tribunal in O.A. No. 667/2017, after passing an order dated 02.08.2019 of cancelling appointment of Shri Ishwar Jotmal Chavan, conducted a fresh enquiry and passed order dated 26.08.2019 by which he again determined that Shri Sandeep Kailas Patil, (respondent No. 3 in 876/2019 and

applicant in O.A. No. 916/2019) is resident of village Ghanegaon and not of Ghanegaon Tanda.

(k) Shri Ishwar Jotmal Chavan, the applicant in O.A. No. 876/2019 has cited the re-enquiry report dated 26.08.2019 of Sub Divisional Officer, Sillod carried out pursuant to the order of the Tribunal in O.A. No. 667/2017, whereby it has again been determined by the respondent No. 2 that the respondent No. 3 in O.A. No. 876/2019 is not the resident of village Ghanegaon Tanda and prayed for cancelling the order of respondent No. 2 dated 02.08.2019 whereby, the applicant's appointment order dated 14.08.2017 had been cancelled. He has further prayed to allow him to work as Police Patil, Village Ghanegaon Tanda. Respondent No. 3 i.e. in O.A. No. 876/2019 has not filed affidavit in reply in the matter.

(l) On the other hand the applicant Shri Sandeep Kailas Patil in O.A. No. 916/2019 has prayed to quash and set aside the enquiry report of respondent No. 2 i.e. the Sub Divisional Officer, Sillod dated 26.08.2019, determining the applicant Shri Sandeep Kailas Patil to be resident of village Ghanegaon and not of Ghanegaon

Tanda and direct the respondent No. 2 to issue appointment order in his favour for the post of Police Patil of village Ghanegaon Tanda.

6. The respondents were duly served with the notices in the two Original Applications and given opportunity to submit their respective say in both original applications. After pleadings were complete; the two matters were taken for final hearing together on 09.08.2021, 24.08.2021 & 22.09.2021.

7. As the deficiencies in findings of the Sub-Divisional Officer Sillod's enquiry report dated 20.07.2017 had been considered in detail by this Tribunal in O.A. No. 667/2017, it is considered necessary to run through the fresh enquiry report of Sub-Divisional Officer, Sillod dated 26.08.2019 in the light of this Tribunal's order dated 03.07.2019 which inter alia, required the Sub-Divisional Officer Sillod to make detailed enquiry as directed by this Tribunal in O.A. No. 222 of 2016. Accordingly, the points on which the respondent No. 2, the Sub Divisional Officer was asked to carry out re-enquiry may be listed as follows-

- i. Learned Sub-Divisional Officer ought to have made detailed enquiry as to whether Ganegaon and Ghanegaon Tanda are

two difference villages and if yes, what is exact distance between these two villages.

- ii. What was the basis of coming to conclusion that the word “Tanda” has been added subsequently in the documents namely mentioned below :- *(being reproduced as mentioned in the order of this Tribunal)*

- “१. अर्जामध्ये आपण सर्व ठिकाणी घाणेगाव च्या पुढे तांडा हा शब्द नंतर लिहिलेला आहे. (घाणेगांव तांडा)
२. गामसेवकाचे रहिवासी प्रमाणपत्रात देखील तांडा हा शब्द नंतर वेगळ्या शईने लिहिला असल्याचे स्पष्ट होते. घाणेगाव (तांडा)”

- iii. Sub-Divisional Officer has not made any enquiry except scrutinizing the documents. There is no reference to the Election Commissions Identity Card submitted by the applicant at Annexure “A-1”, from which it seems that the applicant is resident of village Ghanegaon Tanda, Tq Soyagaon. The said identity card is of the year 2007.

- iv. Residential certificate issued by the Gram Panchayat, Ghanegaon, also shows that the applicant’s residence is Ghanegaon Tanda. This has not been considered by the Sub-Divisional Officer, Sillod.

v. The property card in form No. 8 for the year 2011-12 also shows open land owned by the applicant at Ghanegaon Tanda and similarly the 7/12 extract of gut no. 78 shows that he (the applicant) is owner of that land, which is situated at Ghanegaon Tanda. This document too, has not been considered by the Sub-Divisional Officer, Sillod.

vi. The Sub-Divisional Officer ought to have recorded the statement of the villagers to get confirmed as to whether the applicant is really resident of village Ghanegaon Tanda and whether he is conversant with the public and public life in that village and for that purpose detailed enquiry was required to be made by the respondent no. 2.

8. The Sub-Divisional Officer has, as directed by this Tribunal, conducted fresh enquiry and submitted his findings vide his report dated 6.08.2019 by which he has categorically stated that Ghanegaon and Ghanegaon Tanda are two separate revenue villages however; Group Gram Panchayat of Ghanegaon Tanda has three revenue villages under it, namely, Ghanegaon Tanda, Ghanegaon and Murty Tanda. He has mentioned that any certificate issued by Group Gram Panchayat of Ghanegaon Tanda may have mention of the name of the Gram Panchayat

which may not reflect the name of revenue village of residence. The Sub-Divisional Officer has also stated in his fresh enquiry report that the Electorates Identity Card does not show permanent place of residence of a voter, instead the same shows ordinary place of residence. In addition, it is also stated that the Voters' Identity Card of year 2007 has mention of village Ghanegaon Tanda as; up to year 2009 the two villages had only one polling station of Ghanegaon Tanda. The Sub-Divisional Officer, Sillod has not responded to the issue mentioned in para 9 (ii) above which requires his to state the basis of coming to conclusion that the word "Tanda" has been added subsequently in the documents listed in the said para. However, the Sub-Divisional Officer has conducted local enquiry, recorded statements of villagers of Ghanegaon Tanda and based on the local enquiry he has concluded that Shri Sandeep Kailash Patil, the applicant in O.A. No. 916/2019 was resident of village Ghanegaon, Taluka-Soygaon. The villagers had stated that father of Shri Sandeep Patil had been resident of Village Ghanegaon where he had been staying with his family in his own house. It has further been stated that Shri Sandeep Patil has a fair price / ration shop in village Ghanegaon, Taluka Soygaon. It has also been ascertained by the Sub-Divisional Officer that family of Shri

Sandeep Patil had a vacant residential plot and agricultural land in Ghanegaon Tanda and the father of Shri Sandeep Patil has constructed a house on the said residential plot in the year 2019 and had stated living there from August, 2019 i.e. after the process of selection for the post of Police Patil had been concluded.

9. During the hearing, the Shri Sandeep Kailash Patil reiterated his grievance mentioned in O.A. No. 916/2019 that the Sub-Divisional Officer had recorded statement of interested persons as such the fresh enquiry has not been done in a fair manner. The applicant has also stated that he belongs to Maratha community whereas the respondent no. 3 in O.A. No. 916/2019 belongs to Banjara community which constitute majority of the residents of the village and therefore, everyone is making false statement against the applicant.

10. However, it appears from the fresh enquiry report submitted by the sub-division officer, Sillod had conducted fresh enquiry in presence of Shri Sandeep Patil and recorded his say also. At no stage of fresh enquiry till passing of orders by the Sub-Divisional Officer, Sillod he had raised any objection

regarding process of enquiry including veracity of statements made by the residents of village Ghanegaon Tanda.

11. The two contesting parties had been directed to submit any additional documents in support of their respective claims which they wish this Tribunal to look into. Accordingly, the applicant i.e. in O.A. No. 876/2019 has submitted two sets of documents marked as document 'X' (containing 15 pages) and document 'Y' (containing 6 pages) during hearing on O.A. No. 876/2019. Documents marked as 'X' are those documents which show that the applicant Shri Ishwar Jotmal Chavan is local and permanent resident of village Ghanegaon Tanda. The said documents set marked as 'X' comprises of photocopy of (i) birth certificate, (ii) voter ID card, (iii) Aadhar Card, (iv) Ration Card, (v) School Leaving certificate of year 1996, (vi) Domicile Certificate dated 01.03.2016, (vii) Caste certificate dated 13.01.2015, (viii) Hill Area resident certificate dated 26.06.2019, (ix) repeat of hill area resident certificate dated 26.06.2019, (x) hill area education certificate dated 06.07.2009, (xi) caste certificate dated 14.09.1999, (xii) Electricity bill of 06.09.2021, (xiii) Village Form No. 8 dated 11.09.2021, (xiv) Residence certificate dated 17.01.2015 and (xv) Aadhar card of his father. The set of documents marked as 'Y' comprises of copies of documents to

rebut the claim of respondent No. 3 in O.A. No. 876/2019 as he is local and permanent resident of village Ghanegaon Tanda. The documents are (i) Residence certificate dated 16.12.2016, (ii) Electricity bill dated 29.02.2016, (iii) Village Form No.8 of dated 11.09.2021, (iv) Village Form No.8 for house no.13 dated 11.09.2021, (v) Birth certificate of the Daughter of the respondent no. 3 dated 18.02.2014 issued on 11.09.2021 and (vi) Birth certificate of second respondent no.3 dated 16.09.2011 issued on 11.09.2021.

12. During hearing of O.A.No.916/2019, the applicant Shri Sandeep Kailash Patil submitted two sets of documents sets marked as 'Z' (comprising of 8 pages) and 'Z A' (comprising of a single document). Set 'Z' is claimed to have copies of documents to support claim of Shri Sandeep Kailash Shelke/Patil to be resident of village Ghanegaon Tanda and set 'ZA' to rebut the claim of respondent no. 3 in O.A. No. 916/2019 viz. Shri Ishwar Jotmal Chavan to be resident of village Ghanegaon Tanda. The set 'Z' comprises of photo copies of (i)his Aadhar card, (ii) his own Voter I.D. card, (iii) copy of ration card issued on 03.06.2016, (iv) Hill Area certificate dated 05.07.2001, (v) Hill Area residence certificate dated 05.07.2001, (vi) residence certificate dated 18.03.2016, (vii) village Form No.7/12 and (viii) His entry in voter

list of Ghanegaon Tanda. The set of documents marked as 'ZA' comprises of School leaving certificate of respondent No. 3 showing place of birth of respondent No. 3 as village Ghanegaon.

13. The documents submitted by the applicants in the present two Original Applications during process of hearing have been referred to during arguments. These documents were supplied by each applicant to the opposite party. However, during process of final hearing neither of the two contesting applicants has challenged truthfulness of any of the documents submitted by each one of them and taken on record as marked as "X", "Y", "Z" and "ZA".

14. The two O.A.s were closed for orders on 22nd September 2021 requiring the two contesting applicants to submit brief notes of arguments made by them within one week's time from 22.09.2021. In pursuant to that, the learned advocate for Shri Ishwar Jotmal Chavan, the applicant in O.A. No. 876/2019 (respondent no. 3 in O.A. No. 916/2019 has submitted a brief note on 27.09.2021. Similarly, the learned advocate for Shri Sandeep Kailash Patil, the applicant in O.A. No. 916/2021 (respondent no. 3 in O.A. no. 876/2019) has submitted brief note

on arguments made by him on 30.09.2021. Both the notes have been taken on record.

15. On examination of documents in set "Z" submitted by Shri Sandeep Kailash Patil/ Shelke (applicant in O.A. No. 916/2019), it is noticed that in UIADI card of Shri Sandeep Patil the address in Marathi language shows his address as Ghanegaon Tanda whereas, in English the same is mentioned as Ghanegaon only. This makes this document doubtful. His voter's identity card is of the year 2007 and extract of voters' list is for year 2014. It is not clear whether these documents show Part No. of electoral roll corresponding to polling station namely, Ghanegaon Tanda or house number in village Ghanegaon Tanda. However, ration card of Shri Sandeep Patil issued on 03.06.2016 shows his place of residence as Ghanegaon Tanda. Other secondary documents in the form of Hill Area Residence Certificates issued by Tahsil Office is shown to be based on school leaving certificate, however, copy of school leaving certificate has not been submitted. Therefore, it is not possible to draw conclusion based on this document. On the contrary, Residence Certificate of Shri Sandeep Kailash Shelke, dated 16.12.2016 (document no. 1 of set marked as "Y" (submitted by the applicant in O.A. No. 876/2019) shows that he is resident of village Ghanegaon,

Taluka- Soygaon. As this certificate does not bear certificate number, date etc. as has been mentioned by the same Gram Panchayat on residence certificate of father of Shri Ishwar Jotmal Chaval, therefore, this document cannot be relied upon. But, electricity bill of Shri Sandeep Kailash Shelke dated 29.02.2016. Birth Certificate of his daughter Payal (date of birth- 18.02.2014) and son Bhavesh (date of birth 16.09.2011) have mention of place of residence of Shri Sandeep Kailash Patil as Village- Ghanegaon, Taluka- Soygaon (बाळाचे जन्माचे वेळी आई वडिलांचा पत्ता : घाणेगाव, ता. सोयगाव, जि. औरंगबाद). Further, the extracts of village form 8 for house no. 55, and 13 issued by Group Gram Panchayat, Ghanegaon corroborate findings of Sub-Divisional Officer, Sillod that Shri Sandeep Kailas Patil applicant in O.A. No. 916/2019 and his father have house in the village Ghanegaon only. As, in Aadhar Card of Shri Sandeep Kailas Patil, the applicant in O.A. No. 916/2019, the name of village in Marathi is mentioned as 'Ghanegaon Tanda', whereas in English the same is mentioned 'Ghanegaon', this discrepancy raises doubt about truthfulness of this document as the UIDAI portal translates every word without exception. The above analysis shows that there are inconsistencies in respect of entries for place of residence of Shri Sandeep Patil, applicant in O.A. No.

916/2019 and respondent No. 3 in O.A. No. 876/2019 and therefore, do not help in supporting his claim regarding place of his permanent residence. Moreover, evidence of electricity bill, extract of village register 8 etc. submitted by the respondent No. 3 in O.A. No. 916/2019 (applicant in O.A. No. 876/2019), which further dent the said claim of Shri Sandeep Kailas Patil. Therefore, factual position revealed in local enquiry has to be relied upon to a large extent.

16. Based on local inquiry carried out by the Sub-Divisional Officer, Sillod he has determined that Shri Sandeep Kailash Patil, the applicant in O.A. No. 916/2019 (respondent no. 3 in O.A. No. 876/2019) is actually permanent resident of village- Ghanegaon, Taluka- Soygaon. There is no convincing and cogent reason put forward by the contesting parties to discredit the neutrality of the enquiry officer and fairness of the process adopted by him except for allegations made after the enquiry report is known to him, which can be termed as afterthought.

17. During final hearing, the learned advocate for respondent no. 3 in O.A. No 876/2019 (applicant no. 916/2019) had made a categorical statement that both the applicants are residents of village Ghanegaon Tanda, meaning thereby, that as per him

there is no dispute regarding place of residence of Shri Ishwar Jotmal Chavan, the applicant in O.A. No. 876/2019 (respondent no. 3 in O.A. No. 916/2019). However, in paragraph 7 of the brief note submitted by him, it has been alleged that school leaving certificate of the other contesting applicant in O.A. No. 876/2019 and respondent No. 3 in O.A. No. 916/2019 (in document set marked as "ZA" shows his place of residence as Ghanegaon. However, this is not found to be true as the said certificate does not mention place of residence of the student.

18. As the village Ghanegaon and Ghanegaon Tanda are, as per map, only about 750 feet away from each other and they are under the same group gram panchayat, it can be reasonably inferred that both of the two applicants are conversant with public and public life of the village Ghanegaon Tanda. However, it is the place of permanent residence that is critical determining parameter in the instant matter.

19. On perusal of the order passed by this Tribunal in O.A. No. 667/2017 dated 03.07.2019 read with order of this Tribunal in O.A. No. 222/2016 dated 20.12.2016, it is crystal clear that the Tribunal had only directed the Sub-Divisional Officer, Sillod to enquire into claims of Shri Sandeep Kailas Patil, applicant in

O.A. No. 222/2016 and O.A. No. 667/2017 (who is also the applicant in O.A. No. 916/2019 and respondent No. 3 in O.A. No. 876/2019) of his being permanent resident of village Ghanegaon Tanda and accordingly issue appointment order. There was no direction by the Tribunal to cancel the selection process for the post of Police Patil of village Ghanegaon Tanda, pursuant to the advertisement dated 01.12.2016.

20. Considering the facts on record and arguments made by the two contesting applicants in the background of orders passed by this tribunal in O.A. No. 222/2016, dated 17.10.2016 and in O.A. No. 667/2017, dated 03.07.2019, I proceed to pass following order:-

ORDER

- (A) O.A. No. 876/2019 is allowed.
- (B) Reliefs prayed for by the applicant in O.A. No. 876/2019 in terms of prayer clause 9(B) and 9(C) are granted.
- (C) The Original Application No. 916/2019 is hereby dismissed.
- (D) No order as to costs.

PLACE : AURANGABAD.

DATE : 01.10.2021.

KPBS.B. O.A. Nos. 876 with 916 of 2019 Plice Patil

(BIJAY KUMAR)
MEMBER (A)