

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 352 OF 2016

DIST. : PARBHANI

Sow Sangita w/o Balkishan Sangle,
Aged 28 years, Occu. Nil,
R/o Sanglewadi, Post Bhogadevi,
Tq. Jintur, Parbhani.

--

APPLICANT

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mantralaya,
Mumbai 400 032.
(copy served on Presenting Officer,
M.A.T. Bombay, Bench at Aurangabad)
2. The Collector,
Collector Office, Parbhani.
3. The Sub Divisional Officer,
Selu, Tq. Selu, Dist. Parbhani.
4. Sow Usha Nageshwar Sangle,
Age. 27 years, Occ. Nil,
R/o Sanglewadi, Post Bhogadevi,
Tq. Jintur, Parbhani.

--

RESPONDENTS

APPEARANCE : Shri S.T. Veer, learned Advocate for the
applicant.

: Shri I.S. Thorat, learned Presenting Officer for
respondent nos. 1 to 3.

: None appears for respondent no. 4, though duly
served.

**CORAM : HON'BLE SHRI J. D. KULKARNI,
MEMBER (J)**

J U D G M E N T**{Delivered on this 22nd day of November, 2016}**

1. The applicant Sow Sangita w/o Balkishan Sangle applied for the post of Police Patil in response to the advertisement dated 22.12.2015. She applied for the said post for village Sanglewadi, Tq. Jintur, Dist. Parbhani. The res. no. 4 has also applied for the said post. The advertisement was issued by the res. no. 3. As per the advertisement clause no. 6 the candidate applying for the post shall not have any connection with any political party and shall not be a member of village Panchayat and he or she shall not be an employee in any Govt. or semi Govt. or private service and the said candidate was to give an undertaking to that effect on a stamp of Rs. 100/-.

2. According to the applicant, the res. no. 4 is elected Member of Village Panchayat Sanglewadi and she is also working on the post of Prerika under Lokshikshan Centre, Sanglewadi. She is also having connection with the local Congress party and on all these counts the res. no. 4 is not entitled even to apply for the post of Police Patil. The applicant and the res. no. 4 have appeared for written and oral examinations on 1.3.2016. The applicant filed her complaint as regards the eligibility of res. no. 4 on which the res. no. 3 the Sub Divisional Officer, Selu issued notices on 11.3.2016 to the applicant and the res. no.

4. However, no final decision has been taken by the res. no. 3 on the said complaint and, therefore, the applicant has filed this O.A.

3. During the pendency of the present O.A., the res. no. 3 issued order in favour of the res. no. 4 on 30.4.2016 appointing her as a Police Patil of village Sanglewadi and, therefore, the applicant claimed that the said appointment be quashed and set aside and the applicant be appointed in place of res. no. 4.

4. The res. no. 3 has filed affidavit in reply and admitted that the res. no. 4 was elected as a Member of Village Panchayat of Sanglewadi. It is also accepted that the res. no. 4 worked as Prerika under Lokshikshan Centre, Sanglewadi.

5. According to res. no. 3 it has taken the cognizance of the applicant's complaint and granted opportunity to the applicant and the res. no. 4 and has rejected the applicant's grievance vide order dated 30.4.2016. The copy of the said order passed by res. no. 3 is also placed on record at Exh. R-2 (paper book pages 67 & 68).

6. According to res. no. 3, the res. no. 4 has tendered a resignation from the post of Prerika under Lokshikshan Centre, Sanglewadi and also resigned from the post of Member of Village Panchayat of Sanglewadi prior to joining on the post of Police Patil and, therefore, the appointment of res. no. 4 is legal and proper.

7. The res. no. 4, though duly served, neither appeared nor filed separate affidavit in reply.

8. Heard Shri S.T. Veer, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for respondent nos. 1 to 3. I have perused the application, affidavit, affidavit in reply filed by the respondent no. 3 and various documents placed on record.

9. As seems from the facts, discussed in foregoing paras, there is no dispute that the res. no. 4 was not given appointment prior to filing of this O.A. While issuing notices to the respondents in the present matter, the res. no. 3 was directed not to issue appointment order in favour of res. no. 4 till filing of the affidavit in reply. However, it seems that the res. no. 4 has been appointed on the post of Police Patil vide the impugned order dated 30.4.2016 issued by res. no. 3. The res. no. 3 has taken an excuse on the ground that appointment order of res. no. 4 was already issued prior to granting of stay by this Tribunal.

10. From the admitted facts it is clear that there is no dispute that the res. no. 4 was a Member of Village Gram Panchayat, Sanglewadi and was working as Prerika under Lokshikshan Centre, Sanglewadi and she was holding these posts at the time of submission of the application for the post of Police Patil. The question, therefore, is whether subsequent resignations of res. no. 4 of the post of Prerika under Lokshikshan

Centre, Sanglewadi and the post of Member of Village Gram Panchayat, Sanglewadi will entitle her eligible for the post of Police Patil ?

11. The learned Advocate for the applicant has invited my attention to the advertisement no. 01/2015 whereby the applications for the post of Police Patil in Parbhani District were called for. It seems that, as many as total 81 posts were to be filled in. The very opening sentence of the said advertisement shows that the applications were to be filed only by the eligible persons. The exact words of the said advertisement reads as under :-

¶~~6~~भणी जिल्हयातील सेलू उपविभागाचे उपविभागीय दंडाधिकारी, त्यांच्या कार्यक्षेत्रातील जिंतुर तालुक्यातील गावांत पोलीस पाटील पदभरतीसाठी अर्हताधारक व्यक्तींकडून विहित नमून्यात फक्त ऑनलाईन पध्दतीने www.parbhani.nic.in संकेतस्थळावरील <https://parbhani.appl.ygov.com> या लिंकवर अधिकृत अर्ज मागविण्यात येत आहे.+

12. If the aforesaid condition is considered, it will be clear that the only eligible persons were to file Online applications and, therefore, it is necessary to see the conditions of the eligibility and other conditions in the advertisement. There is no dispute that the res. no. 4 acquired minimum qualification as mentioned in the advertisement as regards his educational qualification, age, residence, character etc. etc. The learned Advocate for the applicant has invited my attention to clause 6 of the

procedure, terms and conditions for appointment (निवड कार्यपध्दती, अटी, शर्ती).

The condition no. 6 reads as under :-

७६. अर्जदार कोणत्याही राजकिय पक्षाशी संबंधित नसावा. अर्जदार हा नेमणूकीच्या गावी स्थानिक स्वरूपात उदयोग करणारा नसावा. त्याच प्रमाणे इतर ठिकाणी संपुर्ण वेळ नौकरी वा धंदा करणारा नसावा. त्याच प्रमाणे ग्रामपंचायत सदस्य नसावा. तसेच खाजकी किंवा निम सरकारी संस्थेचा सदस्य नसावा अथवा पूर्ण वेळ नौकरी करणारा नसावा. या बाबतचे रूपये १००/- च्या स्टॅप पेपरवरील प्रतिज्ञापत्र कागदपत्रे पडताळणीच्या वेळी सादर करणे आवश्यक राहिल.+

13. The aforesaid condition clearly states that the persons, who wants to apply for the post of Police Patil shall not be concerned with any political party nor he should have any permanent business in the village, so also in full time service and the said person shall not be a Member of Grampanchayat or in any private or semi Govt. service and the said candidate has to give such undertaking on a stamp paper of Rs. 100/- at the time of verification of the documents. In the present case, the res. no. 4 is not only a Member of Gram Panchayat, but also serving as Prerika under Lokshikshan Centre, Sanglewadi. As per the advertisement, the qualification of the candidates was to be considered as on 22.12.2015. In para 21 of the said advertisement it is stated as under :-

७७. विहित शैक्षणिक पात्रता धारण न करणा-या उमेदवारांचे अर्ज, विहित नमुन्यात नसलेले अर्ज, अपूर्ण मजकूर चुकीचे भरलेले अर्ज, स्वाक्षरी नसलेले

अर्ज, विहीत शुल्क न भरलेले अर्ज, विहीत कालावधीत प्राप्त न झाल्यास अर्ज याप्रमाणे इतर उणीवा असलेले अर्ज नाकारण्यात येतील व त्याबाबत कोणताही पत्र व्यवहार केला जाणार नाही, याची कटाक्षाने नोंद घ्यावी.+

14. From the aforesaid clause it is clear that the applications of the candidates, who are not eligible for applying for the post of Police Patil, will be rejected and no correspondence will be made in that regard. If the aforesaid condition is accepted as it is, then it will be clear that on the date of submission of application, it seems that the res. no. 4 was not eligible to apply for the post of Police Patil, since she was a Member of Village Panchayat Sanglewadi and she was also working on the post of Prerika under Lokshikshan Centre, Sanglewadi.

15. The learned P.O. has invited my attention to Exh. R.2 dated 30.4.2016 wherefrom it seems that the applicant's objection was rejected by the res. no. 3. It seems that, during the enquiry on the said complaint filed by the applicant, her Advocate asked the Sub Divisional Officer, Selu to direct the res. no. 4 to file affidavit and to state that the res. no. 4 was not concerned with any political party or was not a Member of Village Panchayat Sanglewadi and was not working on the post of Prerika under Lokshikshan Centre, Sanglewadi. It was also requested that, the res. no. 4 shall not be appointed as she was working as Prerika under Lokshikshan Centre, Sanglewadi from last 7 to 8 years. To this objection,

the res. no. 4 and her Advocate stated that they were not knowing the legal provisions to resign from the said posts. As regards the service, it is stated that the res. no. 4 was getting remuneration of Rs. 2,000/- per month, but from last one year she did not get it. The res. no. 4 admitted that, she has resigned the post of Member of Village Panchayat, Sanglewadi on 26.2.2016 and the same has been accepted on 4.3.2016. She further admitted that, she has also resigned from the post of Prerika under Lokshikshan Centre, Sanglewadi on 16.2.2016. If this is accepted, then admittedly the res. no. 4 was the Member of Village Panchayat, Sanglewadi as well as was in service as a Prerika under Lokshikshan Centre, Sanglewadi on the date of submission of application to the said post. As already stated, the applications were called from eligible candidates only and for being eligible, it was necessary that the said person shall not be a Member of Village Panchayat or in any service. However, on the date of submission of application for the post, the res. no. 4 was the Member of Village Panchayat, Sanglewadi as well as was in service as a Prerika under Lokshikshan Centre, Sanglewadi and, therefore, the candidature of the res. no. 4 should not have been accepted by the res. no. 3 and subsequent resignation will not make the res. no. 4 eligible for the post of Police Patil.

16. In view of the discussion in foregoing paragraphs, I am satisfied that the appointment order issued by the res. no. 3 on 30.4.2016 in favour

of the res. no. 4 as a Police Patil of village Sanglewadi, Post Bhogadevi, Tq. Jintur, Dist. Parbhani is illegal and as such the same deserves to be quashed and set aside. Hence, I pass following order :-

ORDER

- (i) The appointment order issued by the res. no. 3 dated 30.4.2016, thereby appointing the res. no. 4 Sow Usha Nageshwar Sangle as a Police Patil of village Sanglewadi, Post Bhogadevi, Tq. Jintur, Dist. Parbhani is quashed and set aside.
- (ii) The res. no. 3 is directed to take the step to appoint the applicant on the said post of Police Patil in place of res. no. 4, if the applicant is otherwise eligible on merits.

There shall be no order as to costs.

MEMBER (J)