

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

**ORIGINAL APPLICATION NO.523 OF 2013**

DIST. :AHMEDNAGAR

Dilip s/o Balasaheb Sangle,  
Age.19 years, Occ. Nil,  
R/o Jainpur, Tq. Newasa,  
Dist. Ahmednagar.

-- APPLICANT

**V E R S U S**

1. The State of Maharashtra,  
Through its Principal Secretary,  
Revenue & Forest Department,  
Mantralaya, Mumbai.

2. The Tahsildar, Newasa,  
Tq. Newasa, Dist. Ahmednagar.

3. Anil s/o Ambadas Tandale,  
Age. 28 years, Occu. : Service,  
R/o Ganeshwadi, Tq. Newasa,  
Dist. Ahmednagar..

-- RESPONDENTS

APPEARANCE :- Shri B.G. Sagade Patil, learned Advocate  
for the applicant.

: Shri B.S. Deokar, learned Presenting  
Officer for the respondent nos. 1 & 2.

: None appears for respondent no. 3.

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**CORAM** : **JUSTICE M.T. JOSHI, VICE CHAIRMAN**  
**AND**  
**ATUL RAJ CHADHA, MEMBER (A)**

**DATE** : **12<sup>th</sup> July, 2018**  
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**ORAL - ORDER**

*(Per : Justice M.T. Joshi, Vice Chairman)*

1. Heard Shri B.G. SagadePatil, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for respondent Nos. 1 & 2. None appears for respondent no. 3.

2. By the present Original Application the applicant is seeking following reliefs :-

*B) Hold and declare that, the impugned letter of appointment dated 28.07.2013 issued by the Respondent No. 2 appointing respondent No. 3 on the post of Kotwal at village Ghogargaon, Tq. Newasa, Dist. Ahmednagar is illegal and arbitrary and therefore, same is liable to be quashed and set aside and for that purpose issue necessary orders;*

*C) Direct the Respondent Nos. 2 to issue appointment order in favour of the applicant on the post of Kotwal at village Ghogargaon, Tq. Newasa, Dist. Ahmednagar and for that purpose issue necessary orders;"*

3. The res. no. 2 – the Tahsildar, Newasa, Tq. Newasa, Dist. Ahmednagar – issued a proclamation for selection to the post of Kotwal on 24.5.2013 (Exh. C page 22), which also includes village Ghogargaon for N.T.-D category. There is no dispute that the present applicant as well as appointed candidate the res.

no. 3 – Shri Anil s/o AmbadasTandale–are from the said category.

4. The condition no. 1 of the said proclamation / advertisement inter-alia was to the effect that the candidate should belong to native of the said village and should have deep knowledge of the local area. The case of the present applicant is that he is resident of village Jainpur, which is a part of SajjaGhogargaonGroup Panchayat. However, the res. no. 3 is resident of villageGaneshwadi, which is about 40 to 45 Kms. away from village Ghogarwadi and the res. no. 3 has no knowledge about local area and, therefore, the res. no. 2 ought not to have allowed the res. no. 3 to participate in the selection process and issue appointment order in his favour.

5. The res. nos. 1 & 2 have filed their affidavit in reply. It was submitted vide para 7 (page 44) that, in the G.R. dtd. 7.5.1959 it is provided that the person appointed as a Kotwalof the village must have knowledge of the local condition of thesaid village and must be ready to stay in the said village in which he is going to be appointed. There is no condition in the said G.R. that the candidate to be selected as a Kotwalmust be resident of the said village. In the result, as the res. no. 3 was selected on

merit after examination, though against the proclamation but in tune with G.R. and, therefore, the same cannot be faulted.

6. The res. nos. 1 & 2 have not replied to the pleadings of the applicant that village Ganeshwadi, where the res. no. 3 resides, is 40 to 45 kms. away from village Chogargaon, but bank on the provisions in the G.R. as above. Further, the res. no. 2 did not clarify as to on the basis of which material the res. no. 2 came to the conclusion that the res. no. 3 had deep knowledge of local area of the village.

7. The res. no. 3 filed affidavit in reply. He also did not clarify the distance between the village Ganeshwadi and village Ghogargaon. He also bank on the G.Rs. and recruitment rules as detailed by the res. no. 2.

8. In the circumstances, when the case was heard on 17.4.2018 the learned Advocate for res. no. 3 was directed to file additional reply of respondent No. 3 and to make statement regarding the distance between these 2 villages. Learned Advocate for res. no. 3 took time to file additional reply on the said date, but thereafter neither the res. no. 3 nor his learned Advocate has put presence in the present proceedings.

Therefore, ultimately vide order dtd. 11.6.2018 it was directed that the present O.A. be heard in absence of res. no. 3.

9. Upon hearing both the sides, in our view, though the res. no. 2 is banking on the condition in the G.R. that only requirement for selection of the candidate to the post of Kotwal is of having deep knowledge of local area, in the proclamation it was put that candidate should belong to the said village.

10. The facts on record put by the learned Advocate for the applicant that the distance between these 2 villages is 40 to 45 kms away from each other is not denied by any of the respondents. In the circumstances, as to whether the res. no. 3 had deep knowledge of the local area of the village is very much relevant. The res. no. 2 had no material to come to this conclusion. The G.R. on which the res. no. 2 put reliance is, however, specific in this regard, which requires that candidate should have deep knowledge of the area. Thus, without having any material in this regard before the res. no. 2, the res. no. 2 allowed the res. no. 3 to participate in the selection process.

11. In the circumstances, we are of the opinion that, the appointment of res. no. 3 is not justified. Therefore, the present O.A. will have to be allowed to the extent of declaration that the

appointment of res. no. 3 is illegal. The issue of appointment of present applicant or any other suitable candidate shall have to be considered by the res. no. 2 on its own merit.

12. In the circumstances, we pass the following order :-

**ORDER**

- (i) The present O.A. is partly allowed without any order as to costs.
- (ii) The impugned appointment and posting order dtd. 28.7.2013 issued by the res. no.2 in favour of res. no. 3 is hereby quashed& set aside.
- (iii) The res. no. 2 is hereby directed to take exercise of selection and appointment of a suitable candidate for the post of Kotwal of sajjaGhogargaon as per rules and the procedure on the basis of selection process already undertaken, within a period of 3 months from the date of this order.

**(ATUL RAJ CHADHA)  
MEMBER (A)**

**(M.T. JOSHI)  
VICE CHAIRMAN**

**Place : Aurangabad**

**Date :12.7.2018**