

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.969/2012.

Sandeep Narayan Chauhan,
Aged Major,
Occ- Agriculturist,
R/o At and Post Adgaon Raja,
Tq. Sindkhed Raja,
Distt. Buldana.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Home
Mantralaya, Mumbai-32.
2. The Sub-Divisional Officer,
Mehkar, Distt. Buldana.
3. The Tehsildar,
Mehkar, Distt. Buldana.
4. Nilesh Karbhari Shingare,
Aged about 30l years,
Occ-Agriculturist,
R/o At and Post Adgaon Raja,
Tq. Sindkhed Raja,
Distt. Buldana.

Respondents.

Shri Ramesh Darda, Ld. Advocate for the applicant.
Shri D.M. Kakani, Ld. C.P.O. for the respondents 1 to 3.
None for respondent No.4.

Coram:- The Hon'ble Shri Justice A.P.Deshpande,
Vice-Chairman.

Dated:- 8th January, 2013.

Oral Order

Heard Shri Ramesh Darda, the learned counsel for the applicant and Shri D.M. Kakani, the learned C.P.O. for the respondent Nos. 1 to 3. None appears for respondent No.4.

2. The present applicant and the respondent No.4 had participated in the process of selection for appointment to the post of Police Patil. The candidature of the respondent No.4 was rejected by holding him ineligible on the ground that he does not own or possess the landed property in the village concerned. Aggrieved thereby, the respondent No.4 had preferred O.A. before the Tribunal vide O.A. No.641/2012. The Tribunal by its judgment dated 17.10.2012 declared that the respondent No.4 (applicant in the earlier O.A.) was eligible for appointment to the post of Police Patil and quashed the impugned order passed by S.D.O., Mehkar dated 21.7.2012. It will not be out of place to mention that by passing an interim order in O.A. No.641/2012, the respondent No.4 was permitted to

participate in the selection process and he participated therein. The O.A. was allowed in the following terms:-

“(a) The impugned order dated 21.7.2012 passed by S.D.O., Mehkar is hereby quashed and set aside.

(b) It is declared that the applicant is eligible for appointment to the post of Police Pail.

(c) It is also declared that the participation of the applicant in the selection process is legal and valid and the S.D.O. is directed to publish the select list and appoint the candidate as per the select list.

(d) Rule made absolute in above terms, however, with no order as to costs”.

3. The learned counsel for the applicant candidly admits that the judgment of the Tribunal rendered in earlier O.A. No.641/2012 was challenged by filing the Writ Petition, however, the Writ Petition was allowed to be withdrawn. Thus, the judgment of the Tribunal passed in earlier O.A. has attained finality.

4. The learned counsel for the applicant submits that the Tribunal, in the earlier round of litigation has only pronounced on the eligibility of respondent No.4 for the post of Police Patil. However, while considering the candidate for appointment, the S.D.O., Mehkar was under an obligation to bear in mind the criteria set out in Rule 5 (2) of the Maharashtra Village Police Patil (Recruitment, Pay, Allowances and Other Conditions of Service) Order 68. The said provision lays down the factors to be taken into consideration while forming an opinion by the S.D.O. in the matter of appointment. The submission made on behalf of the applicant is that the impugned order of appointment does not in any manner reveal that the criterion laid down under Rule 5 of Order 68 were taken into consideration while issuing an appointment order. In my considered view, in the first place, the S.D.O., Mehkar is justified in issuing the impugned appointment order in terms of the order passed by the Tribunal dated 17.10.2012, which has attained finality and in the second place, he S.D.O., Mehkar

is not expected to record in the appointment order, that he has considered all the factors which he was supposed to bear in mind before issuing the appointment order. Hence, as there is no merit in the O.A., the same stands dismissed in limini.

sd/-

(Justice A.P.Deshpande)
Vice-Chairman

Pdg