

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1107 of 2023 (S.B.)

Shymrao Shrikrushna Shende,
Aged about 30 years,
Occupation Nil
R/o. Marupar, Tahsil Bhiwapur, District Nagpur.

Applicant.

Versus

- 1) Secretary, Home Department,
Mantralaya, Mumbai-400 032.
- 2) Sub Divisional Officer,
Sub Divisional Office, Umrer
Tahsil Umrer, District Nagpur.
- 3) Roshni Arun Mangar,
Aged about 40 years, Occupation
R/o. Marupar Rehabilitation, Tahsil Bhiwapur
District Nagpur.
- 4) Chetan Babanrao Bante,
Aged about 33 years, Occupation Mulk Business,
R/o. Adyal Rehabilitation, Tahsil Bhiwapur,

Respondents.

Shri M.R. Patil, Advocate for the applicant.
Shri M.I. Khan, P.O. for respondent nos.1&2
Shri D.M. Kakani, learned P.O. for respondent no.3.
None for respondent no.4.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 01/03/2024.

J U D G M E N T

Heard Shri M.R. Patil, learned counsel for applicant, Shri M.I. Khan, learned P.O. for respondent nos.1 and 2, Shri D.M. Kakani, learned counsel for respondent no.3 and none for respondent no.4.

2. The case of the applicant in short is as under –

Respondent no.2 issued proclamation dated 03/05/2023 for the appointment of Police Patil of villages. The applicant and respondent no.3 appeared in the examinations. Respondent no.3 secured more marks. It is the case of the applicant that respondent no.3 was on the post of Sarpanch and therefore as per the conditions mentioned in the proclamation, she should not have been appointed on the post of Police Patil. Therefore, the applicant approached to this Tribunal for cancellation of appointment of respondent no.3.

3. The reply is filed by respondent no.3. It is submitted that the applicant has resigned the post of Sarpanch before she joined the post of Police Patil. The respondent no.3 had secured more marks than other candidates. She is rightly appointed on the post of Police Patil. Therefore, the O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for applicant has pointed out the conditions mentioned in the proclamation. As per condition no.6 candidate should not have any relation with political party. The said condition is reproduced below –

“अर्जदाराचा कोणत्याही राजकिय पक्षाशी संबंध नसावा. त्याचप्रमाणे तो इतर ठिकाणी पूर्ण वेळ नोकरी करणारा नसावा. तसेच तो स्थानिक स्वराज्य संस्थेचा, खाजगी किंवा निमसरकारी संस्थेचा सदस्य नसावा. याबाबतचे रुपये 100/- च्या स्टॅम्प पेपरवरील प्रतिज्ञापत्र, कागदपत्र पडताळणीच्या वेळी सादर । करणे आवश्यक राहिल.”

5. The learned counsel for applicant has submitted that the applicant was holding the post of Sarpanch and therefore she was not eligible for appointment on the post of Police Patil. Hence, prayed to allow the O.A. and appointment order issued to respondent no.3 be cancelled.

6. Shri D.M. Kakani, learned counsel for respondent no.3 has pointed out resignation given by the applicant. It is dated 16/08/2023. The applicant had resigned the post of Sarpanch on 16/08/2023. The said resignation was accepted by the Gram Panchayat on 25/08/2023. Therefore, the applicant sworn affidavit dated 24/08/2023 stating that she has no any relation with any political party. She was/ is not holding any post / service etc. The appointment order is dated 29/08/2023.

7. Shri D.M. Kakani, learned counsel for respondent no.3 has pointed out the G.R. 02/06/2022. The material portion of the G.R. in para-2 is reproduced below –

“स्थानिक स्वराज्य संस्थांचे पदाधिकारी किंवा सदस्य यांचा पोलीस पाटील पदासाठी उमेदवार म्हणून विचारात घेतले जाऊ शकतात. तथापि, त्यासर्व पदावरून प्रत्यक्षात राजीनामा दिल्यानंतरच त्यांची नियुक्ती पोलीस पाटील पदावर केली जाऊ शकते.”

8. As per the G.R., local body members can be appointed for the post of Police Patil, but they should have tendered resignation before the appointment. In the present matter, the applicant was

Sarpanch of the village before the appointment. She had tendered her resignation. Her resignation was accepted by the Gram Panchayat. Thereafter, the appointment order was issued by respondent no.2. Hence, the appointment order is inconsonance with the G.R. dated 02/06/2022. There is no any illegality.

9. Nothing is pointed out to show that respondent no.3 belongs to any political party. No any document is produced to show that she was Sarpanch of a particular party. Hence, it cannot be said that she was member of any political party. At the time of appointment order, she was not holding the post of Sarpanch. There is no dispute that respondent no.3 got highest marks in the examination of Police Patil and therefore appointment order was issued in favour of respondent no.3. There is no illegality in issuing the appointment order by respondent no.2 in favour of respondent no.3. Hence, the following order –

ORDER

The O.A. is dismissed with no order as to costs.

Dated :- 01/03/2024.

**(Justice M.G. Giratkar)
Vice Chairman.**

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 01/03/2024.