

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 241 of 2016 (S.B.)

Rajendra Hiralal Rachhore,
Aged about 32 years,
Occ. Agriculturist, R/o at post Nandgaon (Esamba)
Post Gondegaon, Tah. Parsioni, Dist. Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Ministry of Home Department,
Mantralaya, Mumbai-32.
- 2) The Sub Divisional Magistrate,
Ramtek, Tah. Ramtek, Dist. Nagpur.
- 3) Santosh S/o Devaji Thakare,
Aged about 32 years, Occ. Nil,
R/o at post Nandgaon (Esamba) post Gondegaon,
Tah. Parsioni, Dist. Nagpur.

Respondents

Shri S.N. Gaikwad, Advocate for the applicant.

Shri A.M. Khadatkar, learned P.O. for the respondent nos.1&2.

S/Shri K.J. Topale, A. Tichkule, Advocates for respondent no.3.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGEMENT

(Delivered on this day 22nd of November,2017)

Heard Shri S.N. Gaikwad, Id. Counsel for the applicant, Shri A.M. Khadatkar, Id. P.O. for respondent nos.1&2 and Shri K.J. Topale, Id. counsel for respondent no.3.

2. The applicant has applied for the post of Police Patil for the village of Nandgaon, Tah. Parsioni, Dist. Nagpur along with respondent no.3. In view of the process conducted by the respondent authorities the result was declared in which the applicant got 63 marks, whereas the respondent no.3 secured 66 marks. In view of the fact that the respondent no.3 got more marks than the applicant, the respondent no.2 issued appointment order in his favour on 1/4/2016. According to the applicant, the respondent no.3 has no landed property in village Nandgaon and he has made number of interpolations in the answer sheet which was prohibited and therefore his marks have been wrongly calculated by the respondent no.2. The applicant therefore claims that the appointment order issued in favour of respondent no.3 dated 1/4/2016 be quashed and set aside and recruitment process be considered as illegal and bad in law.

3. The respondent no.2 files the reply-affidavit and denied the applicant's allegations. It is stated that due procedure has been followed by the respondent no.2. The respondent no.3 has answered 50 questions correctly and his scored in the written test would have been 50 instead of 49. It is further stated that the applicant himself

has made number of corrections or overwriting in the answer sheet. Such as question nos. 3,7,19 & 35 and therefore if the instruction no.2 in the answer sheet is followed correctly, then the applicant would have got 63 marks and the respondent no.3 should have got 66 marks. It is stated that the respondent no.3 has been selected on his own merits. It is further stated that the condition as regards ownership of landed property in the village is not mandatory.

4. The respondent no.3 also filed reply-affidavit and submitted that his marks are wrongly calculated. In fact he has answered 50 answers correctly and in the written examination he should have got 50 marks instead of 49. It is further stated that the respondent no.3 is more qualified than the applicant.

5. So far as objection that the respondent no.3 does not own landed property in the village, the learned counsel for the applicant submits that as per the advertisement dated 14/8/2015 (A-1,P-10) it was mentioned in condition no.1 itself that the applicant must own landed property in the village. It is stated that the respondent no.3 has no landed property. The learned P.O. in this regard has placed reliance on the Judgment delivered in the case of **Rajesh Krishna Kale Vs. State of Maharashtra & Ors., reported in 2015 (4) Mh.L.J.,799.** In the said Judgment the Hon'ble High Court has held that holding of land in own name is not mandatory for a person

aspiring for appointment as of Police Patil. In view of this the objection that the respondent no.3 is not holding landed property is not legal. Though it might be the condition mentioned in the advertisement, the recruitment rules does not state about requirement of ownership of such landed property.

6. The learned counsel for the applicant has invited my attention to the copy of the answer sheet solved by the respondent no.3. It is at Annex-A-7 at P.B. page no.16 to 22 (both inclusive). In instruction no.2 it has been mentioned as under :-

*^%2½ ; k izu i fLrdr , d izuky 4 i ; k; h mRrjsl pfoysyh vl uu R; kauk v]c]d]M
vl sdekd ns; kr vkysysvkgr- R; k pkj mRrjki &th ; kx; mRrjkpk i ; k; ; k if=dr
¼pk&ku½ e/; suem djkok- brj mRrjkoj [kkMk[MM d# u; } vl smRrj xkg; /kjys
tk.kj ukgh ; kph ukm ?; koh-***

7. The learned counsel for the applicant submits that the respondent no.3 has made overwriting to the answer nos. 8,11 & 58 and therefore the respondent no.2 should not have granted marks to the respondent no.3 for answering these questions.

8. The learned P.O. has also placed on record the copy of the answer sheet of applicant. The same is at P.B. page nos. 54 to 60 (both inclusive). It is material to note that the applicant has also made overwriting in the answer sheet to answer to the question nos.3,7,19 & 35. In view of this, if the condition no.2 of the answer sheet is

considered strictly, then more marks of the applicant's answer sheet should have been deducted as against three marks of respondent no.3 and in that case also the respondent no.3 will stand on merit. It also seems that the marks of written test of respondent no.3 are wrongly calculated. The respondent no.3 should have got 50 marks out of 80, but he has been awarded 49 marks and there is miscalculation. In my opinion all these factors are to be considered by the competent authority, i.e., respondent no.2 and the respondent no.2 has used the discretion and in any case there seems to be no malafides in appointing respondent no.3.

9. The applicant has participated in the process and never objected for the procedure adopted by the respondent no.2 and therefore merely because the result is declared against him and the respondent no.3 has been selected on merits, the applicant has no locus standi to claim quashing and setting aside of the recruitment process. I, therefore, do not find any merits in the O.A. Hence, the following order:-

ORDER

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

Dated :- 22/11/2017.

(J.D. Kulkarni)
Vice-Chairman (J).

dnk.