

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 366 of 2018 (S.B.)**

Raju Madhukarrao Shirpurkar,  
Aged about 37 years,  
Occ. Agriculturist, R/o Shirpur Boke,  
Tahsil Arvi, District Wardha.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Secretary,  
Home Department, Mantralaya, Mumbai-32.
- 2) Sub Divisional Officer, Arvi,  
District Wardha.
- 3) Mangesh S/o Suresh Dakhole  
Aged about 33 years,  
Occ. Agriculturist, R/o Shirpur Boke,  
Tah. Arvi, Dist. Wardha.

**Respondents.**

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**Shri D.M. Surjuse, Advocate for the applicant.**  
**Shri M.I. Khan, learned P.O. for respondent nos.1&2.**  
**Shri U.K. and Rakccha Bisen, Advocates for respondent no.3.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

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**Date of Reserving for Judgment : 14<sup>th</sup> December,2021.**

**Date of Pronouncement of Judgment : 24<sup>th</sup> December, 2021.**

**JUDGMENT**

**(Delivered on this 24<sup>th</sup> day of December, 2021)**

Heard Shri D.M. Surjuse, learned counsel for applicant,  
Shri M.I. Khan, learned P.O. for respondent nos.1&2 and Shri N.U.

Lone, learned counsel holding for Shri U.K. Bisen, learned counsel for respondent no.3.

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

3. The respondent no.2 had published the advertisement on 1/3/2018 to appoint 130 posts of Police Patil. The applicant secured 68 marks in written examination and 9 marks in personal interview. The applicant had secured total 77 marks. On the other hand, selected candidate / respondent no.3, Mr. Mangesh S. Dakhole has secured 62 marks in written test and 16 marks in personal interview, total 78 marks. It is submitted that there was discrimination in allotting the marks in personal interview, deliberately. The Selection Committee has given less marks to the applicant. It is submitted that respondent no.3, Mr. Mangesh S. Dakhole who has secured less marks in written examination is well acquainted with respondent no.2, Sub Divisional Officer (SDO), Arvi, particularly, in case of mutation of plots, sale transactions of plots etc. Therefore, SDO has given more marks to respondent no.3 i.e. 19 marks. On the other hand, the applicant was given 5 marks only. It is submitted that the procedure is not duly followed by the respondent no.2, therefore, the applicant prayed following prayer –

*“(i) Call for entire record and proceeding of the selection process of the Police Patil of the entire saza from the office of respondent no.2,*

*Sub Divisional Officer, Arvi including the record of written examination and oral interview and the footage of interview proceeding conducted by respondent no.2. Therefore, on perusal of records be please to quash and set aside the selection process from the stage of interview and direct the respondent no.2 to conduct the interview of the candidates a fresh to the post of Police Patil of the said saza.*

*(ii) In the alternatively be please to quash and set aside the selection process of Police Patil of all saza and direct the respondent no.2 to conduct the fresh selection process of the applicants and other candidate in accordance with law.*

*(iii) It may be declare that the entire selection process done by respondent no.2 is arbitrary, illegal and objectionable in respect of appointment of Police Patil of various saza and same may kindly be pleased to quash and set aside the selection list of Police Patil which is at Annex-A-4&5.*

*(iv) Direct the respondent no.2 not to issue any appointment order in favour of the selected*

*(iv-a) It may be declared that the selection of respondent no.3 is null and void and his appointment order on the post of Police Patil of village Shirpur Boke may kindly be quash and set aside.”*

4. The application is strongly opposed by respondent no.2. It is contended that the advertisement was published for recruitment of 130 posts of Police Patil for different villages of Wardha District.

5. The respondent nos.1&2 have completed the selection process. 547 candidates were called for oral interview. Out of them,

120 candidates were selected and 10 posts could not be filled up due to lack of meritorious candidates. It is submitted that all 547 candidates who appeared for personal interview are the necessary parties. The applicant has not made them respondents in this O.A. If the prayer is allowed, then their valuable rights will be affected. On this count, the O.A. is liable to be dismissed.

6. It is submitted that the respondent no.2 duly and carefully completed recruitment process of the posts of Police Patil of Taluka Arvi, Ashti and Karanja in Wardha District, as per the provisions of Maharashtra Village Police Act, 1967. After completion of written examination, on the basis of marks obtained in the written examination 547 candidates were called for interview. The oral interview committee was as under –

“ Sub-Divisional Executive Magistrate, Arvi	- Chairman
Tahsildar of concern Dist.	- Member/ Secretary
SDPO, Arvi	- Member
Social Welfare Officer Wardha	- Member
Project Office, Tribal Dev. Dept.Wardha.	- Member

7. It is submitted that the applicant participated in the oral interview. He appeared before the Interview Committee. The

applicant took a chance to get him selected on the basis of oral interview. Only because, he did not find himself a successful candidate and therefore he filed the present O.A. It is submitted that now it is well settled law that if a candidate takes a calculated chance and appears at the interview. Thereafter only because the result of written examination and oral interview is not palatable to him, he cannot turn round and subsequently contend that the process of selection for oral interview was unfair or Selection Committee was not properly constituted. It is a settled law that when candidates appeared at the oral interview without protest and when they found that they would not succeed in selection process, then they are restrained from taking any objection or filing any O.A. challenging the conducted of written examination or oral interview and marks.

8. The applicant has made false allegations against respondent no.2 stating that the Interview Committee were knowing the written examination marks obtained by the candidates. It is submitted that written marks were not kept before the Interview Committee and therefore no question arises that the Committee Member were shown the favouritism to a particular candidate. It is submitted that false application is made by the applicant and hence it is liable to be dismissed.

9. Learned counsel for the applicant submitted that respondent no.2, SDM/ SDO shown favouritism to respondent no.3. Respondent no.3 was well acquainted with respondent no.2 because he was always visiting to the office of SDM/ SDO. He has submitted that intentionally respondent no.2 has given more marks (19 marks) to respondent no.3 and only 5 marks to the applicant. In this support, he has pointed out the decision in case of **Dalbir Singh and another Vs. State of Punjab & ors.**

10. Heard learned P.O. As per his submission, the O.A. itself is not maintainable. All 547 candidates who appeared for personal interview, are not made party in this O.A. On that ground the O.A. itself is liable to be dismissed. He has pointed out the order of this Tribunal dated 23/6/2021 in O.A. Nos. 414,415,416,417 & 629 of 2018. This Tribunal has dismissed the said O.As., on the ground that 547 candidates who appeared in the personal interview were not made party. The Id. P.O. has pointed out the decision of this Tribunal dated 3/4/2017 in O.A. 113/2016 and submitted that once the applicant has taken part in the oral interview without raising any objection, he cannot be allowed to challenge the selection process after declared him unsuccessful.

11. The recruitment process was advertised on 1/3/2018. The details were given about conduct of recruitment process in the

advertisement. Accordingly, the recruitment process was started. After the written examination, 547 candidates were called for oral interview for selection of 130 posts of Police Patil. There was separate oral interview in respect of each village. Chart of oral interview is reproduced as under –

**मुलाखतीत देण्यात आलेले गुण**

Sr. No.	RollNo	firstname	middlename	surname	Village	SDO, Arvi	SHPO, Arvi	APO, Wardha	Asst. Commissi oner	Tahsildar	Average in Interview	Roundup marks	Remark
15	21096	CHETAN	DNYANESHWARRAO	CHAFLE	शिरपुर बोके	12	7	8	9	9	९	९	
16	21150	MANGESH	SURESH	DAKHOLE	शिरपुर बोके	19	13	18	10	18	१६.६	१६	
17	21761	PRASHANT	KALIDAS	SHIRPURKAR	शिरपुर बोके	10	5	9	9	8	८.२	८	
18	21762	MANISHA	PRASHANT	SHIRPURKAR	शिरपुर बोके	14	10	9	9	10	१०.४	१०	
19	21763	RAJU	MADHUKARRAO	SHIRPURKAR	शिरपुर बोके	5	10	8	15	9	९.४	९	
20	21831	MANGESH	MADHUKARRAO	WAGH	शिरपुर बोके	0	0	0	0	0	0	0	गटकार

12. From the perusal of Chart, it appears that respondent no.2 given 19 marks to respondent no.3, 10 marks to one Prashant K. Sirpurkar, 14 marks to Manisha P. Sirpurkar and 5 marks to the applicant. Average oral marks of respondent no.3 was 16 and average marks of applicant was 9.

13. More marks were given to other candidates as compared to applicant. The applicant has raised objection against respondent no.3 only, because he is selected for the post of Police Patil of village Sirpur Boke.

14. The total written and oral marks of respondent no.3 were more than the marks obtained by the applicant. The applicant has not

raised any objection immediately after the oral interview. After declaration of result, the applicant came to know that respondent no.3 is selected for the post of Police Patil, therefore, he has made allegations against respondent no.2

15. There is nothing on record to show that respondent no.2 shown any favouritism to respondent no.3. This Tribunal in O.A. Nos. 414,415,416,417 & 629 of 2018 has passed the order dated 23/06/2021 which is as under -

“ Heard S.D. Malke, Id. Counsel for the applicants and Shri P.N. Warjurkar, Id. P.O. for respondent nos.1&2. None for R-3.

2. The learned counsel for the applicants is challenged selection process dated 23/4/2018. The respondent no.2 i.e. SDO, Arvi, Dist. Wardha has filed reply on 26/10/2018. In para-9 of the reply on page no.55 it has been submitted that total 547 candidates were interviewed from 6/4/2018 to 16/4/2018. Out of that 120 candidates were selected and 10 posts could not be filled up due to lack of meritorious candidates. It has been also submitted that all five members of interview were as below –

“ Sub-Divisional Executive - Chairman  
Magistrate, Arvi

Tahsildar of concern Dist. - Member/  
Secretary

SDPO, Arvi - Member

Social Welfare Officer - Member  
Wardha

Project Office, Tribal - Member  
Dev. Dept.Wardha.

3. Above said Officers were present for conducting the oral interview of total 547 candidates and interview was conducted between 6/4/2018 to 16/4/2018.

4. Now by relief clause it appears that Id. Counsel is raising objection only on oral part and request for cancelling selection of respondent no.3 and also to call entire record of oral interview.

5. However, Id. Counsel has not made respondents to all the 547 candidates who were part of interview from 6/4/2018 to 16/4/2018. Out of that 120 candidates were selected they are also not party in the O.A.



6. *As per rules of Maharashtra Village Police Patils recruitment, Pay, Allowances and other conditions of Service Order, 1968 published on 4/11/1960, para-4 explains term of office as Police Patil for a period of five years only at first instance, the appointment pertains to April,2018 and total tenure of Police Patil is five years. Out of which three years already over. In this situation, extending further for the argument sake no purpose will be solved.*

7. *In absence of all those candidates relief clause cannot be entertained. Hence, the following order –*

**ORDER**

1) *The O.As. are dismissed.*

2) *The learned counsel is at liberty to file separate O.A. including all 547 candidates as respondents who were interviewed between 6/4/2018 to 16/4/2018.”*

16. In the present O.A., the applicant has not made all 547 candidates who appeared in oral interview as party respondents. Looking to the prayer in the O.A., it is not maintainable. Hence, it is liable to be rejected on this ground only.

17. There is also no merit in the contention of the applicant. He has made allegation against the respondent no.2 that he has given less marks to the applicant, but from perusal of the Chart of oral interview, it appears that more marks were given to other candidates also as compared to the applicant. Five candidates were present at the time of oral interview. 19 marks were given to respondent no.3, 14 marks were given to one Manisha Sirpurkar, 10 marks were given to one Prashant Sirpurkar, 12 marks were given to one Chetan Chafle and 5 marks were given to the applicant. It is allegation of the applicant that he has secured more marks in the written examination, therefore, the Interview Committee has given him less marks in the

oral interview, deliberately. This submission of the applicant is without any evidence on record. The written marks were not before the Interview Committee. It is also stated in the affidavit-reply by respondent no.2 that written marks were not known to the Interview Committee. Therefore, there is no substance in the submission of applicant that respondent no.2 was well aware of written marks of applicant, therefore, he has given less marks only to show favouritism to respondent no.3. There is nothing on record to show that there was any favouritism by respondent no.2 in favour of respondent no.3.

18. The applicant appeared in the interview. He had taken part in the selection process, knowing fully procedure laid down therein. He had not raised any objection about selection process. Now he cannot be allowed to challenge the process after being declared him unsuccessful. In O.A.113/2016 this Tribunal dismissed the contention about the selection process of the post of Police Patil. This Tribunal has cited the Judgment of Hon'ble Apex Court. Para-13 is as under-

*"13. The learned P.O. has placed reliance on the Judgment reported in 1986 (supp) SCC 285 **OM Prakash Shukla Vs. Akhilesh Kumar Shukla & Ors.** In the said Judgment Hon'ble Apex Court has observed in para-24 as under :-*

*"(24) Moreover, this is a case where the petitioner in the writ petition should not have been granted any relief. He had appeared for the examination without protest. He filed the petition only after he had perhaps realised that he would not succeed in the examination. The High Court itself has observed that the setting aside of the results of the examinations held in the other districts would cause hardship to the candidates who had appeared there. The same yardstick should*

*have been applied to the candidates in the district of Kanpur also. They were not responsible for the conduct of the examination.”*

19. The Hon’ble Apex Court in cases of **Girjesh Srivastava vs. State of Madhya Pradesh & Ors. and Buddhi Nath Choudhary & Ors. Vs. Abahi Kumar & Ors.**, has held that once the candidate appears for oral interview without any protest. Thereafter he cannot challenge the selection process only when he found unsuccessful. In case of **Union of India & Ors. Vs. Vinodh Kumar & Ors.**, the Hon’ble Apex Court has held that in para-18 as under –

*“(18) It is also well settled that those candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same. (See Munindra Kumar Vs. Rajiv Govil, AIR 1991 SC 1607) [See also Rashmi Mishra Vs. M.P. Public Service Commission, (2006) 11 SCALE 5]”*

20. In case of **Pradeep Kumar Roi Vs. Dinesh Kumar Pandey & Ors.**, the Hon’ble Apex Court has observed that once the appellant had participated in the selection process without raising any objection, they cannot be allowed to challenge the process after being declared unsuccessful. The candidates cannot approbate and reprobate. Either candidates should not have participated in the interview or they should have challenged the procedure immediately after interviews were conducted.

21. The applicant keeps mum after the oral interviews. He did not raise any objection about the procedure adopted by the Committee. After declaration of result, when he found unsuccessful,

he approached to this Tribunal making false allegations against respondent no.2. Those allegations are not based on any document or evidence. The decision cited by the applicant's side in case of **Dalbir Singh and another Vs. State of Punjab & ors.,** is not applicable to the case in hand. In the cited decision, it is held that the procedure adopted for the selection of candidates was wrong. The number of candidates was short listed more than 63 times of the number of vacancies. In the present case for selection of 130 posts of Police Patil, 547 candidates were called. It cannot be said that it is illegal. The applicant failed to establish recruitment process is faulty or illegal. Therefore, he is not entitled for any relief. Hence, the following order –

**ORDER**

- (i) The O.A. is dismissed.
- (ii) No order as to costs.

**Dated** :- 24/12/2021.

dnk\*

**(Justice M.G. Giratkar)**  
**Member (J).**

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 Member (J).

Judgment signed on : 24/12/2021.

Uploaded on : 24/12/2021.