

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 416 of 2019 (S.B.)

Shri Ambadas S/o Dayaram Ragase,
Aged about 45 years,
Occupation : Agriculturist, R/o House No.62, Ward No.3,
Village Tekadi, Tahsil Saoner, District Nagpur.

Applicant.

Versus

- 1) State of Maharashtra through its Secretary,
Department of Home, Mantralaya, Mumbai-32.
- 2) Sub Divisional Magistrate, Tahsil Saoner,
District Nagpur.

Respondents.

Shri S.B. Tiwari, Advocate for the applicant.
Shri A.P. Potnis, learned P.O. for respondents.

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

Dated :- 09/01/2023.

JUDGMENT

Heard Shri S.B. Tiwari, learned counsel for the applicant
and Shri A.P. Potnis, learned P.O. for the respondents.

2. Case of the applicant in short is as under -

On 07/08/2015 the respondent no.2, the Sub Divisional Magistrate, Tahsil Saoner, District Nagpur advertised the post of Police Patil of village Tekadi, Tq. Saoner, District Nagpur. As per the advertisement, the said post was reserved for Scheduled Caste (S.C.) category. The applicant applied for the said post. The applicant

appeared for written test examination and secured 50 marks out of 80 marks, held on 25/10/2015. On 31/10/2015, the applicant was called for oral interview and out of 20 marks, the applicant got 12 marks. The applicant secured 62 marks out of 100 marks and stood first amongst all other candidates from the village Tekadi, Tq. Saoner. The other candidate from the village Tekadi namely Nilesh Baburao Somkuwar got only 56 marks out of 100 marks.

3. The names of all successful candidates from the written and oral test were published. The name of the applicant was at Sr.No.27 as the highest scorer from the village Tekadi, Tq. Saoner. The applicant being eligible to the post of Police Patil, he was directed to produce the documents of ownership. The applicant is not appointed on the ground that he is not having immovable property at village Tekadi. Another candidate namely Nilesh Baburao Somkuwar also not appointed, therefore, the applicant approached to this Tribunal for direction to the respondents to appoint him on the post of Police Patil.

4. The respondent no.2 has filed reply-affidavit and submitted that the applicant has not produced any document to show that he is having immovable property at village Tekadi. It is submitted that as per the advertisement dated 07/08/2015 there are some conditions. One of the condition is that the applicant should have owned

immovable property in the said village. The applicant is not having any immovable property and therefore he is not appointed for the post of Police Patil. Hence, the O.A. is liable to be dismissed.

5. As per the submission of learned counsel for the applicant Shri S.B. Tiwari, appointment cannot be denied on the post of Police Patil only because he is not having immovable property in the village. In support of his submission pointed out the decision in the Judgments of this Tribunal in O.A.Nos.773/2015 and 739/2015 and the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.2880/2016. As per his submission, this Tribunal has relied on the Judgment of **Arun Tukaram Patil Vs. State of Maharashtra and others [1993 (3) Mh.L.J.594]** come to the conclusion that condition for having immovable property in the village for appointment on the post of Police Patil is not a condition laid down in the Maharashtra Village Police Patil (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1998 and therefore appointment cannot be denied on that ground. It is observed in para-7 in the O.A.No.773/2015 as under –

*“(7) I find that the only issue raised in the O.A. is whether it is necessary for a candidate to own immovable property in the village for applying for the post of Police Patil. Hon'ble the High Court in **Arun Tukaram Patil** has ruled that in terms of the Maharashtra Village Police Patil (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1968, it is not*

*obligatory for the candidate to own property in the village. What is required under Rule 3 (c) of the Order is that no person shall be eligible for being appointed as Police Patil who is not the resident of the village. Similarly in **Raiesh Krishna Kale**, the High Court relying on **Arun Tukaram Patil** held that the G.R. dtd. 7/9/1999 nowhere suggests that holding of own land is mandatory for appointment as Police Patil and in terms of the Police Patil Order, possession of landed property is not a criterion for eligibility for appointment.”*

6. In O.A. No. 739/2015, this Tribunal has recorded its findings in para-8 as under –

“8. I find that it is beyond any dispute that the applicant had scored the highest in merit for the post of Police Patil for village Joga and the only reason for denying him selection was that he did not own land in the village. Hon'ble the High Court, as we have seen above, in its cited judgments had clearly held that not owning land in the village cannot be an eligibility condition for the post of Police Patil as per the Police Patils' Order, 1968. Thus, action of R/2 in cancelling the selection of the applicant for the post is clearly illegal and unsustainable. Hence, the select list impugned in the O.A. is quashed and set aside. It is held that the applicant is to be appointed as Police Patil for village Joga on the basis of his merit. The respondents will issue necessary orders in this regard within 4 weeks of receipt of this order.”

7. One of the Judgment was challenged before the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.2880/2016. The Hon'ble High Court has held that in view of the Judgments in the cases of **Arun Tukaram Patil Vs. State of Maharashtra and others** and **Rajesh Krishna Kale Vs. State of Maharashtra and others**, it was not necessary for the candidate to own and possess the landed

property and therefore appointment cannot be refused on that ground.

The Hon'ble High Court has held as under-

*“A proclamation was issued on 07/08/2015 by the Sub Divisional Officer, inviting applications for appointment on the post of Police Patil from village Weltur from Open Category (female) candidates. According to the proclamation, a candidate was required to be a resident of Weltur and apart from certain other conditions, that were required to be satisfied, was also required to own a landed property in Weltur. The respondent No.3 as well as the petitioner applied for the post of Police Patil along with others. Admittedly, the respondent No.3 had secured more marks than the petitioner. However, the candidature of the respondent No.3 was rejected on the ground that she did not own and possess landed property in village Weltur. The action on the part of the Sub Divisional Officer in appointing the present petitioner was challenged by the respondent No.3 before the Maharashtra Administrative Tribunal. It was argued before the Tribunal on behalf of the respondent No.3 that in view of the settled position of law, it was not required for a candidate to own and possess landed property. The Tribunal on an appreciation of the material on record and the judgments, reported in **1993 (3) Mh.L.J. 594 (Arun Tukaram Patil v. State of Maharashtra and others)** and **2015 (4) Mh.L.J. 79 (Rajesh Krishna Kale v. State of Maharashtra and others)**, held that it was not necessary for the respondent No.3 to own and possess the landed property in Weltur. Since the respondent No.3 had admittedly secured more marks than the petitioner, the Tribunal directed the Sub Divisional Officer to appoint the respondent No.3 on the post of Police Patil. The order of the Tribunal is challenged in the instant petition.”*

8. As per the submission of learned P.O. Shri A.P. Potnis, the condition in the advertisement was known to the applicant, he had not fulfilled the conditions and therefore he cannot be appointed. The

learned P.O. has submitted that the applicant had submitted xerox copy, but not submitted original copy of Tax receipt and therefore he was not appointed.

9. During the course of argument, the learned counsel for the applicant submits that the applicant is having agricultural land also. During the course of argument, the learned counsel Shri S.B. Tiwari submits that the applicant will submit original Tax receipt of Gram Panchayat of village Tekadi.

10. Along with reply the respondents had given explanation dated 27/08/2019. In that explanation, it is mentioned that the applicant had submitted Xerox copy of house property, but not submitted original, therefore, he was not appointed. As per the submission of learned counsel for applicant, the applicant will submit original Tax receipt before respondent no.2.

11. The applicant secured 62 marks out of 100 marks in written and oral test and stood first amongst all other candidates from the village Tekadi, Tq. Saoner. The other candidate from village Tekadi namely Nilesh Baburao Somkuwar got only 56 marks out of 100 marks. Therefore, the applicant is the only candidate to be appointed on the post of Police Patil of village Tekadi.

12. In view of the observations made by this Tribunal and as per the Judgment of Hon'ble Bombay High Court, Bench at Nagpur, it is not obligatory on the part of applicant to produce documents to show that that he is having immovable property in village Tekadi. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondent no.2 is directed to appoint the applicant on the post of Police Patil of village Tekadi, Tah. Saoner, District Nagpur within a period of one month from the date of the receipt of this order.
- (iii) No order as to costs.

Dated :- 09/01/2023.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

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 : 09/01/2023.

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