

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 632 of 2019 (S.B.)

Mr. Anandkumar S/o Ramkisan Shendre,
aged about 38 years, Occ. Nil,
Resident of House No.3/521, New Laxmi Nagar,
Manohar Bhai Ward, Gondia (Budurg), Gondia
Municipal Council, Gondia, Tah. & Dist. Gondia
(Maharashtra).

Applicant.

Versus

- 1) State of Maharashtra through Secretary,
Revenue Department, Mantralaya,
Mumbai.
- 2) Collector, Gondia,
Tah. & Dist. Gondia (Maharashtra).
- 3) Kotwal Recruitment Committee,
2018, Gondia, Tah. & Dist. Gondia (Maharashtra).
- 4) Assistant Director,
District Employment and Self Employment Guidance
Center, Gondia & Member, Kotwal Recruitment Committee,
2018, Gondia, Tah. & Dist. Gondia (Maharashtra).
- 5) Assistant Commissioner,
Social Welfare Department, Gondia & Member,
Kotwal Recruitment Committee,
2018, Gondia, Tah. & Dist. Gondia (Maharashtra).
- 6) Sub Divisional Officer, Gondia &
Secretary, Kotwal Recruitment Committee,
2018, Gondia, Tah. & Dist. Gondia (Maharashtra).
- 7) Tahsildar, Gondia and
Secretary, Kotwal Recruitment, 2018
Committee, Gondia, Tah. & Dist. Gondia (Maharashtra).
- 8) Additional Tahsildar, Gondia and
Secretary, Kotwal Recruitment Committee,
2018, Gondia, Tah. & Dist. Gondia (Maharashtra).

- 9) Yashantrao Channilal Kawade,
Aged – Major, Occ. Not known,
Resident of Shastri Ward, Tah. & Dist. Gondia (Maharashtra).

Respondents.

**S/Shri A.N. Ansari , A.A. Saiyyed, V. Surpam, Advs. for the applicant.
Shri A.M. Khadatkhar, P.O. for respondent nos.1 to 8.
None for respondent no.9.**

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

Dated :- 17/11/2021.

JUDGMENT

Heard Shri A.N. Ansari, learned counsel for the applicant
and Shri A.M. Khadatkhar, learned P.O. for respondent nos.1 to 8.
None for respondent no.9.

2. The learned counsel for the applicant pointed out various documents filed on record. The learned P.O. has submitted that as per the advertisement dated 30/11/2018 there was condition that the applicant should be permanent resident of the village where he applied for the post of Kotwal and as per the condition no.9, the applicant should have applied for only one post.

3. After hearing and perusing the documents filed on record by the applicant, this Tribunal passed the order dated 22/8/2019. The Para-5 of the said order is reproduced as under –

“5. Respondents are directed to maintain status-quo as on today for filling the post of Kotwal, Gondia (Budrug) only. The ld. counsel for the applicant has submitted that till now kotwal post of Gondia (Budrug) is not filled”.

4. The case of the applicant in short is that the applicant is resident of village New Laxmi Nagar, Gondia (Budurg). As per advertisement dated 30/11/2018, the Additional Tahsildar, Gondia advertised 15 posts of Kotwal. The applicant applied for the post of Kotwal as per the advertisement dated 30/11/2018. He appeared in written examination as well as in oral test and secured 57 marks in written examination and 18.8 marks in oral test, total 75.80 marks were given to the applicant. The applicant's name is shown in the merit list. The objector who obtained less marks namely Shri Yashantrao Channilal Kawade (R/9) raised objection that the applicant is not the resident of village Gondia (Budurg). In the merit list, the applicant was shown at Sr.No.115, whereas, the objector i.e. the respondent no.9 was shown at Sr.No.118.

5. The applicant was informed vide letter dated 24/1/2019 by the Tahsildar, Gondia directing him to remain present on 1/2/2019 in the office of Sub-Divisional Officer, Gondia. The applicant submitted his written submission on 1/2/2019 in respect of the objection raised by the respondent no.9. The applicant was directed to remain present for hearing on 29/7/2019 at 11.00 a.m. in the office of Sub-Divisional Officer, Gondia. Thereafter, the Selection Committee decided the objection on 2/8/2019. As per the decision of the Committee, the applicant was not resident of village Gondia (Budurg) and therefore

the applicant was disqualified for the post of Kotwal of village Gondia (Budurg).

6. On 9/8/2019, the applicant applied to the Tahsildar, Gondia for supply of report of Talathi and other documents.

7. During the course of hearing, the learned counsel for the applicant submitted that even after the application made by the applicant to the Tahsildar, Gondia to supply the report of Talathi that on what basis he is disqualified for the post of Kotwal, is not supplied to the applicant. The learned counsel for the applicant submitted that even in this O.A. the respondents have not filed any document to show that the applicant was not resident of village Gondia (Budurg) and without any relevant document, he is disqualified for the post of Kotwal.

8. The learned P.O. has submitted that there was specific condition in the advertisement itself that the applicant should be the resident of same village for which he applied for the post of Kotwal. The applicant is not resident of Gondia (Budurg) and therefore he is rightly disqualified by the respondents / authorities.

9. From perusal of the documents filed on record, it is cleared that the respondents / authorities have discriminated the

resident of village Gangla, was posted as Kotwal at village Navezari, Tah. Tiroda (3) Mr. Lankesh M. Bisen who is the resident of Bhiwapur, was posted as Kotwal at village Thanegaon, Tah. Tiroda and (4) Mr. Monesh K. Neware who is the resident of Bhiwapur, was posted as Kotwal at village Indora Khurd, Tah. Tiroda. All these appointment orders show that these persons were not the resident of the same village, even though they were given posting at different villages on the post of Kotwal. Whereas, the applicant is disqualified on the ground that he was not resident of village Gondia (Budurg). In fact, nothing is pointed out on record to show that the applicant is not resident of village Gondia (Budurg). As per the submission of the respondents / authorities, the Talathi had submitted report to the Committee stating that the applicant is not resident of village of Gondia (Budurg). The applicant applied to the Tahsildar, Gondia requesting him to supply report of Talathi, but that report was not supplied to the applicant. It is expected from the concerned respondents to file all the documents on record, but the report of Talathi is not filed on record. It shows that the respondents have shown discrimination against the applicant. The ground for disqualification of the applicant was also applicable to other candidates. From the appointment orders of the abovenamed persons who were appointed as Kotwal in different villages show that

they were not the resident of the said villages. The G.R. dated 5/9/2013 is very clear and as per the guidelines of the G.R., it is not necessary for the candidate to be the resident of same village for the post of Kotwal. Looking to the documents filed on record, vide order of this Tribunal dated 22/8/2019, the respondents were directed to maintain status-quo for filling the post of Kotwal, Gondia (Budurg) only. As per the submission of the learned counsel for the applicant, the post of Kotwal of village Gondia (Budurg) is not filled till date and there is no dispute about it. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The impugned order dated 2/8/2019 passed by the respondent nos. 3 to 8 is hereby quashed and set aside.
- (iii) The respondents / authorities are directed to issue appointment order of the applicant for the post of Kotwal of village Gondia (Budurg) within a period of four weeks from the date of receipt of this order.
- (iv) No order as to costs.

Dated :- 17/11/2021.

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 : 17/11/2021.

Uploaded on : 22/11/2021*.