

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.251 OF 2019

**DISTRICT: PUNE
SUBJECT: POLICE PATIL SELECTION**

- 1) Deepika Sandeep Sabale,)
Age: 30, R/o. At Post Kasari,)
Taluka Shirur, District Pune.) **... Applicant**

Versus

- 1) State of Maharashtra,)
Through its Secretary, Home Department,)
Mantralaya, Mumbai-32.)
- 2) District Collector Pune,)
Having its Office at Pune,)
Taluka & District Pune.)
- 3) Sub-Division Magistrate,)
Pune, Sub-Division, Pune.)
- 4) Smt. Rupali Atul Bhujbal,)
At Post Kasari, Taluka Shirur, Dist. Pune) **Respondents**

Shri C.B. Nikte, learned Advocate for the Applicant.

Smt. Archana B.K., learned Presenting Officer for the Respondents Nos. 1 to 3.

Shri S.S. Dere, learned Advocate for the Respondent No.4.

CORAM : Shri A.P. Kurhekar, Hon'ble Member-J

DATE : 08.03.2021.

JUDGMENT

1. The Applicant has challenged the appointment of Respondent No.4 on the post of Police Patil of Village Kasari made by Respondent No.3 S.D.O. by order dated 16.10.2018. The Applicant further sought direction that in place of Respondent No.4, she be appointed on the post of Police Patil of Village Kasari, Taluka Shirur, District Pune.

2. Dispute in present O.A. lies in narrow compass:-

Applicant Smt. Deepika Sandeep Sabale and Respondent No.4 both participated amongst others for appointment to the post of Police Patil of Village Kasari, Taluka Shirur, District Pune. By order dated 16.10.2018 issued Respondent No.3 S.D.O, the Respondent No.4 was appointed having secured 1 mark more than the marks obtained by the Applicant. The Applicant had secured 71 marks, whereas, Respondent No.4 had secured 72 marks out of 100 marks. The controversy raised in O.A. pertains to the marks allotted for participation in sports. As per the criteria fixed by S.D.O. following marks were allotted for sports activities.

	शैक्षणिक अर्हता	निश्चित केलेले गुण
५	शालेय स्तरावरील खेळाबाबतचे प्रमाणपत्र	२
	तालुका स्तरावरील खेळाबाबतचे प्रमाणपत्र	३
	जिल्हा पातळीवरील खेळाबाबतचे प्रमाणपत्र	४
	राज्य/देश स्तरावरील खेळाबाबतचे प्रमाणपत्र?	५
६	सर्वसाधारण माहिती व परिचय	१

3. Heard Shri C.B. Nikte, learned Advocate for the Applicant, Smt. Archana B.K., learned Presenting Officer for the Respondents Nos.1to3 and Shri S.S. Dere, learned Advocate for the Respondent No.4.

4. The Respondent No.4 had produced sport certificate showing that she has participated in sports activity and accordingly she was given three marks. The certificate produced by her is at page 33 of paper book.

The content of the certificate are as under:-

यशवंतराव चव्हाण कला, किडा व सांस्कृतिक महोत्सव

प्रमाणपत्र

पुणे जिल्हा परिषदेच्या विद्यमानाने सन २०००-२००९ मध्ये **खो-खो (मुली)** स्पर्धेत बीट पातळीवर लहान / मध्यम / मोठ्या गटात, प्रथम / द्वितीय / तृतीय क्रमांकांने आल्याने कु./कुमारी **रूपाली सुरेश रासकर** इयत्ता **सातवी** शाळा **रामलिंग** तालुका **शिरूर** जिल्हा पुणे यांना ~~बैयस्वित्तक~~ /सांघिक प्रमाणपत्र बहाल करण्यात येत आहे.

sd/-	sd/-	sd/-
गट शिक्षणाधिकारी	गट विकास अधिकारी	सभापती
पंचायत समिती शिरूर	पंचायत समिती शिरूर	पंचायत समिती शिरूर

5. Whereas Applicant was allotted two marks on the ground that her sport certificate is of school level for which two marks are prescribed. She secured aggregate marks 71 and Respondent No.4 got 72 marks out of total 100 marks.

6. Shri C.B. Nikte, learned Advocate for the Applicant sought to assail the impugned order dated 16.10.2018 on two grounds: (1) As per criteria fixed by S.D.O. only for sports activity at Taluka level three marks were required to given but Respondent's sport certificate pertains to sports

activity of Bit level and therefore it doesn't qualify for three marks. (2) Genuineness of sport certificate itself is not established since, original record is not forthcoming.

7. Per contra learned P.O. and Shri S.S. Dere, learned Advocate for the Respondent No.4 sought to contend that the sports activity in question is of 2000-01 and in terms of Rules, record could not have been preserved for more than 10 years and therefore non production of original record does not matter. They also pointed out that out of three signatory two persons have issued letters affirming their signatory on sports certificate of Respondent No.4. As regard allotment of mark they contend that Bit level is equal school level and therefore three marks given by S.D.O. cannot be questioned. They also pointed out that Respondent No.3 S.D.O. has explained the position in his Affidavit at page 92 to 95.

8. In view of above, question posed for consideration is whether appointment of Respondent No.4 to the post of Police Patil by order dated 16.10.2018 suffers from any legal infirmity and the answer is emphatic negative.

9. Respondent No.4 had produced school certificate of year 2000-01. When she was studying in 7th Std in Zilla Parishad School, Kasari, she had participated in sport conducted by Zilla Parishad, Pune. She produced photocopy of sport certificate which was accepted by S.D.O. In O.A. Respondent No.4 has also produced original certificate issued to her which is at exhibit 54 of the paper book.

10. Learned Advocate for the Respondent No.4 has rightly pointed out that in terms of notification dated 13.05.1964 the record pertaining to sport certificate was to be preserved only for 10 years. As such apparently after 10 years the record was destroyed. Therefore, non production of original record cannot be insisted upon.

11. The perusal of sports certificate in question reveals that it was signed by the Block Education Officer, Block Development Officer and Chairperson, Panchayat Samiti, Shirur. In this behalf it is material to note that in response to letter issued by Tahsildar Shri. S.K. Kulkarni, the then Block Education Officer, and Smt. Sitabai S. Ransingh the then Chairperson of Panchayat Samiti, Shirur issued letters dated 27.01.2021 and 30.01.2021 affirming their signature sport certificate of Respondent No.4 which was issued by them in 2000-01 at the time of sports event organized by Zilla Parishad, Pune. These letters are at page no. 97 and 98 of paper book filed alongwith Affidavit of S.D.O.

12 As such out of three signatory on the certificate two signatory have affirmed their signature on sport certificate. In other words they certify the genuineness of issuance of sport certificate by them. In such situation, I see no substance in the submission advanced by learned Advocate for the Applicant that the certificate is not genuine.

13. True, as per criteria adopted by S.D.O. sports activity at school level would qualify two marks and sport activity at Taluka would qualify three marks. Whereas, in present case certificate in question pertains to sports at Bit level. Learned Advocate for the Applicant was much harping that Bit

level cannot be equated to Taluka level sports and therefore S.D.O. was wrong in allotting three marks to the Applicant. According to him Respondent No.4 would have been entitled for two marks only.

14. As there is dispute about sports activity at Bit level and Taluka level the Tribunal had directed S.D.O. to file Affidavit. Accordingly, Shri Santoshkumar Deshmukh, S.D.O., Pune-Shirur, has filed Affidavit. Para No.6 of Affidavit reads as under:-

“6. I say and submit that the Respondent given letter dated 4.2.2021 from which it become clear that in the Taluka level there are three stages which is as follows:-

- (i) Central level*
- (ii) Beet level*
- (iii) Taluka level*

*And all these are equal levels, for the convenience of all events, they are conducted at different levels, therefore they are called as central level, beet level and Taluka levels. But, it is true that all these levels are above the school level. I further submit that school level having their individual games, but these games are amongst the various school at Taluka level, therefore marks given to the applicant and Respondent No.4 are correct. Hereto annexed and marked as **Exhibit R-4** is a copy of letter dated 4.2.2021.”*

15. Thus in Affidavit S.D.O. stated that there are three levels of the sports and specifically mentioned that school level sports are restricted to individual school and at Taluka levels there is participation of various schools. He therefore sought to justify that Bit level is equal to Taluka level and therefore three marks were rightly given to Respondent No.4.

16. True, in sport certificate in question it is stated that Applicant played at Bit level. However, pertinent to note that it was sports activity conducted by Zilla Parishad, Pune and not by single individual school. Thus, obviously there was participation of various schools and therefore the

certificate was issued not by Head Master of the school but by Panchayat Samiti. Panchayat Samiti is always at Taluka level. When Sports activity are undertaken at school level then sports certificate are also issued by Head Master of that particular school itself. Obviously there was participation of various schools at the level of Panchayat Samiti, Shirur and therefore it has to be construed held at Taluka level. In any situation Bit level is above school level. If the games are played at school level then there would be no question of mentioning Bit level in sport certificate and it is always mentioned as sports activity at school level. Whereas, in certificate in question it is stated as Bit level. Important to note the sports activity was conducted by Zilla Parishad, Pune but it was at level of Panchaya Samiti, Shirur in which there was participation of various schools at Taluka level. In common parlance bit means Division. In rural area bit comprises of various villages. Suffice to say Bit level has to be construed as Taluka Level games.

17. There is another interesting aspect of the matter. If the Applicant's contention that for want of record, sports certificate of Respondent No.4 could not have been considered then, on the same principle the Applicant herself could not have got two marks, since, in respect of her sport certificate also no original record is forthcoming.

18. Thus, if marks allotted to the Applicant as well as Respondent No.4 for sports activity are ignored for want of original record then the Applicant and Respondent No.4 both would get 69 marks out of 100, and both would be on same page. In such situation as pointed out by learned Advocate for the Respondent No.4 in terms of G.R. dated 24.08.2014 issued by

Government (page 88 of P.B.) would come into force which *inter-alia* provides that where both candidate get equal marks then preference should be given to the candidate who possesses higher educational qualification. In present case the Applicant is B.Com. Whereas, Respondent No.4 has done M.C.A. after graduation. As such Respondent No.4 would be preferred over the Applicant in case of both would get equal marks and the appointment of Respondent No.4 would not have been questioned. Thus viewed from this angle also challenge is devoid of merit.

19. The totality of the aforesaid discussion leads me to conclude that challenge to the order of the appointment of Respondent No.4 to the post of Police Patil of Village Kasari, holds no water. I see no legal infirmity in appointment order dated 06.10.2018. O.A. therefore, deserves to be dismissed.

20. O.A. is dismissed with no order as costs.

Sd/-

(A.P. Kurhekar)
Member-J

Place: Mumbai.
Date: 08.03.2021.
Dictation taken by: N.M. Naik.
Uploaded On: _____