

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.584 OF 2021

**DISTRICT : SOLAPUR
SUBJECT : POLICE PATIL
SELECTION**

Shri Audumbar Mhalappa Mali)
Age:-30 yrs, Occ. Student,)
Res/at Malevadi, Tal. Mangalvedha, Dist. Solapur.)... **Applicant**

Versus

- 1) The State of Maharashtra,)
Through Chief Secretary, Revenue Dept.)
Mantralaya, Mumbai-32.)
- 2) The Sub-Divisional Magistrate, Mangalvedha)
Mangalvedha Division, Tal. Mangalvedha,)
Dist. Solapur.)
- 3) The Collector, District Collector Office,)
Dist. Solapur.)
- 4) Mr. Revansiddha Mallappa Nyamgonde)
Age 35 years, Occ. Nil, R/at Malevadi,)
Tal. Mangalvedha, Dist. Solapur.)...**Respondents**

Shri Sachin B. Thorat, learned Advocate for the Applicant.

Smt. Kranti S. Gaikwad, learned Presenting Officer for the Respondent Nos.1 to 3.

Shri Arvind V. Bandiwadekar, learned Advocate for the Respondent No.4.

CORAM : M.A. Lovekar, Member (J)

RESERVED ON : 28.04.2022.

PRONOUNCED ON : 06.05.2022

JUDGMENT

1. Heard Shri S.B. Thorat, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondent Nos.1 to 3 and Shri A.V. Bandiwadekar, learned Advocate for the Respondent No.4.

2. Case of the Applicant is as follows:-

In response to proclamation dated 08.11.2017 issued by Respondent No.2 the Applicant, Respondent No.4 and some others applied for the post of Police Patil of village Malewadi, Tal. Mangalvedha, Dist. Solapur. Tests were conducted and results were declared. The Applicant, Respondent No.4 and one Shri Shrikant Mali secured 74 marks. Respondent No.4 being the eldest among the 3 shortlisted candidates, was appointed to the post. The Applicant was aggrieved by assessment of answer to question No.26. To right this wrong he approached this Tribunal by filing O.A. No.1112/2018. It was decided by judgment dated 19.08.2019 (Exhibit B). This Tribunal passed the following order:-

- (A) "The Original Application is allowed partly.
- (B) The Respondent No.2-SDM is directed to decide which is the correct answer of Question No.26 of Written Examination paper for the post of Police Patil and if the Applicant's answer is found correct, then he should pass further appropriate order about the cancellation as well as appointment of appropriate person to the post of Police Patil on the basis of marks on merit.
- (C) The Respondent No.2-SDM is further directed to give hearing to the Applicant as well as Respondent No.4 and to decide the issue as stated above within a month from today and shall pass further appropriate order.
- (D) No order as to costs."

Respondent No.2, by order dated 07/02/2020 (Exhibit C) cancelled appointment of Respondent No.4. By virtue of reassessment of answer to question No.26 the Applicant's score went up from 74 to 75. In the order dated 07.02.2022 Respondent No.2 stated that procedure in accordance with Rules shall be followed for giving appointment to the Applicant to the post of Police Patil, Mangalvedha. On 22.01.2020 Respondent No.4 submitted an objection / complaint before Respondent No.2 alleging that the Applicant was not resident of village Malewadi and hence he could not be appointed to the post of Police Patil, Malewadi. By passing the impugned order (Exhibit D) on 22.06.2021 Respondent No.2 upheld objection of Respondent No.4 and held that the Applicant did not fulfill condition of residence of the village and consequently he was not qualified to get the appointment as he had incurred disqualification so far as appointment to the post of Police Patil, Malewadi was concerned. The Applicant had a grievance that order passed by this Tribunal in O.A. No.1112/2018 was obeyed by Respondent No.2 only to the extent of cancelling appointment order of Respondent No.4 but latter part of the order passed by the Tribunal i.e. passing appointment order of appropriate person to the post of Police Patil on the basis of marks / merit was not obeyed by Respondent No.2. For redressal of this grievance the Applicant filed Contempt Application No.11/2020 in O.A. No.1112/2018. By order dated 29.07.2021 (Exhibit E) this Tribunal allowed the applicant to withdraw his C.A. by observing that the order dated 22.06.2021 (Exhibit D) had furnished a fresh cause of action. Before the Applicant was allowed to appear for tests, documents furnished by him (Exhibit F collectively) were duly scrutinized. This fact cannot be reconciled with what was concluded by passing the impugned order. Respondent No.4 filed the objection / complaint (Exhibit H) at the behest of Respondent No.2. By the impugned order, Respondent No.2 reviewed his earlier order of acceptance of

documents furnished by the Applicant in support of his place of residence being village Malewadi. Such review was not permissible. The Applicant resisted the objection of Respondent Nos.4 by filing Reply (Exhibit I). To this Reply he attached voluminous record. Documents at exhibits J, K, L, M also support his contention that he is resident of village Malewadi. While passing the impugned order Respondent No.2 failed to consider voluminous documentary evidence furnished before him by the Applicant.

3. Reply of Respondent Nos.1 to 3 is at pages 157 to 164. Reply of Respondent No.4 is at pages 129 to 139. According to these Respondents, the Applicant was rightly disqualified from being appointed to the post of Police Patil of village Malewadi because he was not resident of said village. According to them, order passed by this Tribunal in O.A. No.1112/2018 was fully complied. Respondent Nos.1 to 3 categorically denied that Respondent No.2 had instigated Respondent No.4 to object to claim of the Applicant for the post of Police Patil of village Malewadi.

4. First contention of the Applicant is that Respondent No.2 only partially complied with the order passed by this Tribunal in O.A. No.1112/2018 i.e. to the extent of cancelling appointment of Respondent No.4, but he did not comply with the other direction by giving appointment to the Applicant who had secured highest marks after reassessment of answer to question No.26. The Applicant ventilated this grievance by filing C.A. No.11/2020 wherein this Tribunal observed that order dated 22.06.2021 had furnished a fresh cause of action. The Applicant then withdrew the C.A. and filed this O.A. Thus, his aforesaid contention does not survive.

5. Second contention of the Applicant is that Respondent No.2 instigated Respondent No.4 to object to claim of the Applicant by raising a dispute about his place of permanent residence. This has been stoutly

refuted by Respondent No.2 as well as Respondent No.4. Merely alleging malafides is not enough. What is needed is proof of the same. In the absence of proof one who alleges malafides cannot derive any benefit. Same is the case here.

6. Third contention of the Applicant is that documents furnished by him, including those which satisfactorily established that he is resident of Malewadi, were already scrutinized before he was allowed to appear for various tests, ultimately he cleared all these tests and under such circumstances Respondent No.2 could not have again undertaken scrutiny of the same set of documents only to arrive at a contradictory conclusion. There is no merit in this contention. Scrutiny of documents made by Respondent No.2 at the initial stage could not have been an in-depth scrutiny. In-depth scrutiny was not barred at a later stage. In fact, it was necessitated by the objection / complaint filed by Respondent No.4.

7. So, the only question that is required to be determined is whether the impugned order is sustainable on facts and law.

8. Perusal of the impugned order shows that while passing the same Respondent No.2 considered the following documents:-

मौजे माळेवाडी, ता.मंगळवेढा येथील पुराव्यांचा तपशील		
अ.नं.	पुराव्याचा तपशील	निर्गमित तारीख
१	रेशन कार्डाची प्रत	28/02/2009
२	मतदार यादीची प्रत	31/08/2019
३	आधार कार्ड	-
४	म्हाळाप्पा माळी यांचे नांवाचा माळेवाडी येथील जमीन गट नंबर ५३ चा ७/१२ उतारा	12/02/2020

५	ग्रामसेवक माळेवाडी यांची म्हाळाप्पा माळी यांनी कर भरलेची पावती	01/04/2019
६	ग्रामसेवक माळेवाडी याचा नमुना नंबर ८ चा मिळकत उतारा	14/02/2020
७	तहसिलदार मंगळवेढा यांचे डोमीसाईल प्रमाणपत्र	13/07/2007
८	उपविभागीय अधिकारी मंगळवेढा यांचा जातीचा दाखला	29/11/2010
९	शाळा सोडल्याचा दाखला	24/07/2010
१०	ग्रामसेवक माळेवाडी यांचा म्हाळाप्पा माळी यांचा रहिवास दाखला	01/02/2020

मौजे हुलजंती, ता.मंगळवेढा येथील पुराव्यांचा तपशील		
अ.नं.	पुराव्याचा तपशील	निर्गमित तारीख
१	म्हाळाप्पा माळी यांचे सोलापूर जिल्हा मध्यवर्ती सहाकारी बँक, शाखा हुलजंती येथील बँक खात्याचे पासबुक	--
२	म्हाळाप्पा माळी यांचे महावितरणकडून निर्गमित झालेले विज बील प्रत	डिसेंबर २०१९
३	अमोगसिध्देश्वर म्हाळाप्पा माळी यांची एचपी गॅसडिलीव्हर्ड रिसीट	19/02/2020
४	म्हाळाप्पा माळी यांचे मौजे हुलजंती येथील घराबाबतचा मंडळ अधिकारी हुलजंती यांनी केलेला पंचनामा	17/02/2020
५	ग्रामसेवक माळेवाडी यांचेपत्र	25/01/2020
६	माळेवाडी येथील खुल्या जागेतील फोटो	11/02/2020

After considering these documents Respondent No.2 initially concluded that the documents indicated that the Applicant is residing at Malewadi and also at Huljanti. He observed that because of this the Applicant could not fulfill the following two conditions mentioned in G.R. dated 04.11.1968 issued by Home Department of Government of Maharashtra.

- “अ) पोलिस पाटील पदासाठीचा उमेदवार व्यक्ती हा संबंधित गावातील सर्व लोकांना माहित असावा.
ब) पोलिस पाटील पदासाठीच्या उमेदवार व्यक्तीस संबंधित गावातील सर्व माहिती असली पाहिजे.”

Respondent No.2 then referred to G.R. of Home Department, Government of Maharashtra issued on 07.09.1999 which stipulates “पोलिस पाटील उमेदवार हा स्थानिक रहिवाशी असला पाहिजे.”

Respondent No.2 also adverted to the specific stipulation in proclamation dated 08.11.2017 that the Applicant should be resident of the same village.

9. In Paras 8 to 11 Respondent No.2 recorded his findings as follows:-

“८. तहसिलदार मंगळवेढा यांचा अहवाल पाहिला असता त्यामध्ये ‘‘दिनांक 17/02/2020 रोजी मौजे माळेवाडी येथील वस्तुस्थितीच्या पंचनाम्यानुसार सदर ठिकाणी अंदाजे 4 दिवसांपूर्वी पत्राशेड उभारलेले दिसून आले आहे. तसेच हुलजंती येथे गेले असता गट नंबर 381/2 मध्ये सन 2006-07 साली घरकूल योजनेतून श्री.म्हाळाप्पा दुंडाप्पा माळी घर बांधलेले आहे. सध्या श्री.म्हाळाप्पा दुंडाप्पा माळी हे कुटुंबासह तेथे वास्तव्यास आहेत, असे मंडळ अधिकारी हुलजंती यांनी सादर केलेल्या अहवालात व पंचनाम्यात नमुद आहे’’ असे नमुद केले आहे.

९. प्रकरणामध्ये दाखल कागदपत्रांरून श्री.आर.एस.सोनावणे, ग्रामसेवक माळेवाडी, ता.मंगळवेढा यांनी गटविकास अधिकारी मंगळवेढा यांचेकडे दिनांक 02/03/2020 रोजी केलेल्या रिपोर्टची प्रत पाहिली असता त्यामध्ये श्री.म्हाळाप्पा दुंडाप्पा माळी यांना रहिवाशी व येणे बाकी नसलेबाबतचा दाखला दिनांक 01/02/2019 रोजी अदा केला होता. तथापि सदर दाखल्याचा गैरवापर करून त्यांचे चिरंजीव श्री.औदुंबर म्हाळाप्पा माळी यांनी सदर दाखल्याच्या तारखेवरती दिनांक 01/02/2019 ऐवजी दिनांक 01/02/2020 अशी खाडाखोड करून तहसिलदार सो.मंगळवेढा यांचेकडे सुनावणीदरम्यान सादर केला आहे, असे नमूद केले आहे. सदरबाबत गटविकास अधिकारी मंगळवेढा यांचा अहवाल प्राप्त झाला असून त्यामध्ये ‘‘ग्रामपंचायत माळेवाडी यांचे दफतराची तपासणी केली असता वर नमूद दाखल्याची स्थळप्राप्त दफ्तरी आढळून आलेली नाही. तसेच सदरचा दाखला दिलेबाबत किंवा दाखल्याचा गैरवापर झालेबाबत केलेल्या पत्रव्यवहाराची कोणतीही कागदपत्रे ग्रामपंचायतीमध्ये उपलब्ध नाहीत. त्यामुळे सदरचा दाखला ग्रामपंचायत माळेवाडी, ता.मंगळवेढा यांचेकडे निर्गमित केला नसलेचे दिसून येत आहे.’’ असा अभिप्राय गटविकास अधिकारी यांनी दिला आहे. यावरून श्री.औदुंबर म्हाळाप्पा माळी यांनी सादर केलेला रहिवाशी दाखलाच बोगस असलेबाबतचा संशय निर्माण होत असून याची सखोल पडताळणी होणे आवश्यक आहे. वरील विवेचनावरून श्री.औदुंबर म्हाळाप्पा माळी हे मौजे माळेवाडी, ता.मंगळवेढा येथील रहिवाशी नसलेचे स्पष्ट होत आहे.

१०. सदर प्रकरणी तहसिलदार मंगळवेढा यांनी या कार्यालयाकडे सादर केलेल्या चौकशी अहवाल क्र.वतन/कावि/49/2020 दिनांक 16/03/2020 मध्ये

“तहसिल कार्यालयामध्ये झालेल्या समक्ष सुनावणीमध्ये श्री.औदुंबर म्हाळाप्पा माळी हे सन 2017 सालच्या पोलिस पाटील भरतीवेळी मौजे माळेवाडी, ता. मंगळवेढा येथे वास्तव्यास असलेबाबत कोणताही पुरावा त्यांनी सादर केलेला नाही. त्यामुळे श्री.औदुंबर म्हाळाप्पा माळी यांचा सर्वसाधारण रहिवास माळेवाडी येथील नसल्याचे दिसून येते.”असा अभिप्राय दिला आहे.

११. सदरच्या सर्व विवेचनावरून श्री.औदुंबर म्हाळाप्पा माळी हे सन 2017 सालच्या पोलिस पाटील भरतीवेळी मौजे माळेवाडी, मा.मंगळवेढा येथे वास्तव्यास नसलेचे दिसून येत आहे.”

10. Salient features of what Respondent No.2 concluded need to be highlighted-

(i) Report of Tahasildar, Mangalvedha was to the effect that Panchnama conducted on 17.02.2020 indicated that at village Malewadi, about 4 days back one Tin-shed was erected (by the Applicant).

(ii) In Panchnama conducted by Circle Officer, Huljanti it was stated that in the year 2006-07, in the scheme of allotment of hutments father of the Applicant had constructed his house and he was residing there with his family.

(iii) The Gramsevak, Malewadi had submitted a report dated 02.03.2020 before B.D.O., Mangalvedha stating therein that on 01.02.2019 certificate of residence as well as “NO DUES” was issued to father of the Applicant. The report further opined that said certificate was tampered with by the Applicant, date of its issue was made to appear to be 01.02.2020 and it was produced before Tal. Mangalvedha during hearing of objection / complaint made by Respondent No.4.

(iv) There was well founded suspicion that certificate of residence furnished by the Applicant in support of his claim was concocted and its in-depth verification was needed.

11. The impugned order shows that the entire material placed before him by the Applicant as well as Respondent No.4 was taken into account by Respondent No.2. He arrived at the conclusion only after proper appreciation of these documents. Since the impugned order does not suffer from any illegality or perversity, no interference is called for.

12. As a result, Original Application is dismissed with no order as to costs.

**Sd/-
(M.A. Loveekar)
Member (J)**

Place: Mumbai
Date: 06.05.2022
Dictation taken by: N.M. Naik.

Uploaded on: _____