

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NOs. 599 and 602/2015.

Bharti Dnyaneshwar Mhatarmare,
Aged about 42 years,
R/o Hiwara (BK), Tah. Manora,
Distt. Washim.

-----**Applicant.**

Versus

The State of Maharashtra,
Through its Secretary,
Home Department
Mantralaya, Mumbai

2. The Sub- Divisional Officer,
Karanja Lad, Ta. Karanja Lad,
Distt. Washim.

3. Vidya Sanjay Chandankar,
R/o Hiwara, (BK),Tah. Manora,
Distt. Washim.

-----**Respondents.**

-
1. Shri S.C. Bhalerao, Advocate for the applicant.
 2. Smt. M. I. Khan, Presenting Officer for the Respondents 1 and 2.
 3. Shri U.J. Deshpande, Advocate for R/3
-

ORIGINAL APPLICATION NO. 602/2015.

Vijaya Balu Waghmare,
Aged about 28 years,
Hiwara (BK), Tah. Manora,

Distt. Washim.
R/o Hiwara (BK), Tah. Manora,
Distt. Washim.

-----**Applicant.**

Versus

The State of Maharashtra,
Through its Principal Secretary,
Home Department
Mantralaya, Mumbai

2. The Superintendent of Police,
Distt. Washim.
3. The Sub- Divisional Officer,
Karanja Lad, Ta. Karanja Lad,
Distt. Washim.
4. Vidya Sanjay Chandankar,
R/o Hiwara, (BK),Tah. Manora,
Distt. Washim.

-----**Respondents.**

-
1. Mrs. Smita Taksande, Advocate for the applicant.
 2. Smt. M. I. Khan, Presenting Officer for the Respondents 1 to 3.
 3. Shri U.J. Deshpande, Advocate for R/4
-

CORAM : S.S. Hingne: Member (J)

DATE : 28th Sept., 2016

ORDER

Both the O.As. are disposed of by common order.

2. Consequent to the proclamation (Page 12) dtd. 16/5/2015 issued by the Sub-Divisional Officer, Karanja (R/2), the applications were submitted for the post of Police Patil for village Hiwara (BK) Tah. Manora, Distt. Washim. The post is reserved for Open (Female). The examinations were held and the interview were also conducted. The select list was published on 31/8/2015 (Ann.A-3, page-15). Vidya Sanjay Chandankar, came to be selected and appointed.

3. Bharti Dnyaneshwar Mhatarmare (applicant in O.A. No.599/2015) and Vijaya Balu Waghmare (applicant in O.A. No.602/2015) have challenged the appointment of Vidhya Sanjay Chandankar (R/3 in O.A. No.599/2015 and R/4 in O.A. No.602/2015) by filing the present O.As.

4. The marks secured by the litigants as per sheet (Anne.A-2, page-14) are as follow :-

| अ.क्र. | बैठक क्र. | अर्जदाराचे नाव | पत्ता | लेखी परीक्षेमध्ये मिळालेले गुण | तेतोडी परीक्षेमध्ये मिळालेले सरासरी गुण | एकूण मिळालेले |
|--------|-----------|-------------------------------------|------------------------|--------------------------------|---|---------------|
| १८१ | K/१८१ | सौ. भारतीबाई ज्ञानेश्वर म्हातारमारे | रा.हिवरा बु. ता.मानोरा | ४२ | ७ | ४९ |
| १८२ | K/१८२ | सौ. विद्या संजय चंदनकार | रा.हिवरा बु. ता.मानोरा | ४१ | ९ | ५० |
| १८९ | K/१८९ | सौ. विजया बाळु वाघमारे | रा.हिवरा बु. ता.मानोरा | ४१ | ९ | ५० |

5. The written test was of 80 marks and the oral interview was of 20 marks. Each question was carrying one mark as the question paper of 80 marks.

6. The grudge and grievance of the applicant, B.D. Mhatarmare is that she answered the question no. 46 and the answer was correct but no mark was allotted to her. The question paper is at Anne. A-4, page no. 17. The question was as under :-

प्रश्न :गावात जन्म मृत्युच्या नोंदी हे करतात.

१) सरपंच २)तलाठी ३)कोतवाल ४)ग्रामसेवक

7. As per answer key (Page-22) the correct answer is 'ग्रामसेवक'. Option No. 4. The applicant tick marked on option no. 4. Thus, her answer was correct but she was not given any mark. Thus, thereby she lost 1 mark. If that 1 mark is added in her total, the total comes to 50, equal to the selected candidate.

8. The Id. Counsel for the applicant submits that in the case of equal marks as per the G.R. dtd. 22/8/2014, certain categories are given which are to be preferred and that procedure needs to be followed.

9. The Id. P.O. opposed the application by submitting that the answer key was published on the notice board and the selection list is published on 31/8/2015 but the applicant has not raised any objection and now she cannot make such a belated claim. The list is published on 31/8/2015 and some time has consumed in issuing the appointment order and the O.A. is filed on 6/10/2015. Thus, there is no much delay on the part of the applicant. Moreover only on the ground

that she has not made any representation, she cannot be deprived of taking legal recourse.

10. The matter does not end there. The Applicant Vijaya Balu Waghmare, has filed the O.A. No.602/2015 . She has claimed that she is a heir of the Ex-Police Patil and as per the clause 5 of the G.R. dtd. 22/8/2014, she ought to have been preferred. The respondents' case is that R/4 is more educated than her and therefore she is appointed. It is also their case that the applicant being the daughter-in-law, cannot be the heir of the Ex- Police Patil. This aspect also needs to be re-examined.

11. Vijaya B. Waghmare, has filed the O.A. No. 602/2015 contending that the R/4 was not having any Sports certificates but for that one mark is allotted to her. The applicant can raise this point before the SDO since the matter was being considered afresh.

12. As the sequel to these reasons the appointment of Vidhya Sanjay Chandankar cannot be said to be legal and

valid. Hence, her appointment order dtd. 31/8/2015 (Annex.7, page-68) is quashed. The O.As. are allowed. The SDO to re-consider the matter in the light of the above observations and to issue the appointment order to the eligible and entitled candidate. This exercise be done within a period of one month. No order as to costs.

(S.S. Hingne)
Member (J)

skt