

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 113/2016

- 1) Mulchand Deochand Mohabe,
aged about 37 years and resident of Fukkimeta
Taluka Deori District Gondia.
- 2) Gopal Inder Raut,
aged about 30 years and Halbitola Taluka Sadak
Arjuni, District Gondia.
- 3) Naresh Dadurao Bansod,
Aged about 35 years and resident of
Mundipar Post Murdoli Taluka Deori,
District Gondia.
- 4) Duryodhan Madhaorao Pandram,
Aged about 40 years and resident of Ramatola,
Post Anjora Taluka Aamgaon District Gondia.
- 5) Khushal Vishnu Ghasle aged about 36 years and
Resident of Tekabedar, Post Borgaon Taluka
Deori District Gondia.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Home, Hutatama Rajguru Square,
Madam Cama Marg, Secretariat Bombay-400 032.
- 2) Sub Divisional Officer,
Deori, District Gondia.
- 3) Shrikant Bhimrao Ambade, Village Dewalgaon, Tq. Deori
- 4) Anita Virendra Ambade, Village Istari, Tq. Deori
- 5) Pratima Anilkumar Raut, Village Toyagondi, Tq. Deori
- 6) Pratibha Bhashkar Meshram, Village Dhobisarad, Tq. Deori
- 7) Rajesh Bhaurao Puram, Village Borgaon/B, Tq. Deori
- 8) Vishwanath Sheshram Raut, Village Tekabedar, Tq. Deori
- 9) Umesh Kuwarlal Dudhanang Village Kotjambhora, Tq. Deori
- 10) Sarita Vijay Kallo, Village Dhawalkhedi, Tq. Deori
- 11) Prakash Shiwalal Kalsarpe, Village Deori, Tq. Deori

- 12) Dhaneshram Ramji Bhojar, Village Sundari, Tq. Deori
- 13) Chandrakumar Shrikrushna Hukare, Village Fukkimeta Tq. Deori
- 14) Jagadish Gopalsawaji Narware, Village Chichagad, Tq. Deori
- 15) Anil Subash Wanajari, Village Dawaki, Tq. Deori
- 16) Niraj Kawalsingh Muleri, Village Mahaka, Tq. Deori
- 17) Ravindra Shankar Kshirsagar, Village Mohantola, Tq. Deori
- 18) Sangita Ashok Bhojar, Village Mohandi, Tq. Deori
- 19) Jiyalal Shankar Pipare, Village Bonde, Tq. Deori
- 20) Raghunath Dewar Banjar, Village Dhamditola, Tq. Deori
- 21) Vandana Dnyaneshwar Kapse, Village Bhagi, Tq. Deori
- 22) Aspak Khan Altap Khan Pathan, Village Paulzola, Tq. Deori
- 23) Manojkumar Motiram Badole, Village Ambhora, Tq. Deori
- 24) Naresh Gopichand Shiwanekar, Village Sirpurbandh, Tq. Deori
- 25) Mirabai Nirmal Kumbhare, Village Sirpurbandh, Tq. Deori
- 26) Santosh Shrikisan Bahekar, Village Pauldawana, Tq. Deori
- 27) Amrutlal Shankar Boharw, Village Pauldawana, Tq. Deori
- 28) Satvan Radhakrishna Dhamaye, Village Pipriya, Tq. Salekasa
- 29) Ashokkumar Gyaniram Bhandarkar Village Boda, Tq. Amgaon
- 30) Sanjay Tarachand Hattimare, Village Bangaon, Tq. Amgaon
- 31) Shandip Shanjkar Bawanthade, Village Birshi, Tq. Amgaon
- 32) Bhashkar Yuvraj Patle, Village Kalimati, Tq. Amgaon
- 33) Girdhari Tikaram Rahile, Village Ramatola, Tq. Amgaon
- 34) Ramesh Namdeo Bawankar, Village Jamkhari, Tq. Amgaon
- 35) Rajendra Bisharam Chaudhari, Village Mundipar, Tq. Amgaon
- 36) Chandrakalabai Meghnath Harinkhede, Village Asoli, Tq. Amgaon
- 37) Kishorkumar Radheshyam Donode Village Ghattemni, Tq. Amgaon
- 38) Pradipkumar Gangaram Bawanthade, Village Thana, Tq. Amgaon
- 39) Shila Rajendra Rahile, Village Bamhani, Tq. Amgaon.
- 40) Deveshwari Vanendra Pardhi, Village Fukkimeta, Tq. Amgaon
- 41) Nisha Durgeshwar Katre, Village Koshamtarra, Tq. Salekasa
- 42) Shahebdas Chaindas Ambade, Village Toyagondi, Tq. Salekasa
- 43) Madhuri Hukumchand Pdoti, Village Kopalgad, Tq. Salekasa
- 44) Somlal Dhanlal Thakre Village Managad, Tq. Salekasa
- 45) Mamta Tulshidas Shihore Village Rondha, Tq. Salekasa
- 46) Someshwaribai Ashokkumar Katre, Village Bamhani, Tq. Salekasa
- 47) Girdhari Patiram Marskolhe Village Khadi, Tq. Sadak Arjuni
- 48) Kundad Chairaram Neware Village Ghategaon Tq. Sadak Arjuni
- 49) Jagdish Shamrao Raut Village Mendaki Tq. Sadak Arjuni
- 50) Manohar Shyamrao Sonwane Village Nainpur Tq. Sadak Arjuni
- 51) Pushpa Raju Kapgate Village Mahuli Tq. Sadak Arjuni
- 52) Ashok Chintaman Sakhare Village Kolargaon Tq. Sadak Arjuni
- 53) Jayashri Madanlal Vaidya Village Futala Tq. Sadak Arjuni
- 54) Anil Dewaji Mendhe Village Halabitola Tq. Sadak Arjuni

- 55) Shobha Gemendra Bisen Village Temani Tq. Sadak Arjuni
56) Shuresh Ganpat Borkar Village Deopayali Tq. Sadak Arjuni
57) Shila Vinodkumar Kursunge Village Palasgaon/D Tq. Sadak Arjuni
58) Dayanand Tima Kore Village Kokna/J Tq. Sadak Arjuni
59) Sandhy Vishwanath Bhahekar Village Bharegaon Tq. Sadak Arjuni
60) Chhanpa Ashok Lihre Village Pandri, Tq. Salekasa

All respondents 3-60 are working as Police Patil in villages mentioned against their names and are permanent residents of District Gondia.

Respondents

Shri Shashikant Borkar, Advocate for the applicants.

Shri M.I. Khan, P.O. for the respondents nos.1&2.

Shri S.Y. & C.U. Deopujari & Ankit Dighe, Advs. for R-3 to 60.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

Dated :- 03/04/2017.

ORDER -

The applicants in this O.A. have challenged the selection process of 63 posts of Police Patil (both written and personal interview) in pursuance of the proclamation dated 02/09/2015 issued by Respondent no.2, i.e., SDO, Deori, District Gondia. It is stated that the said selection process is illegal and arbitrary and unsustainable. It is contrary to the G.Rs. dated 27/08/2014 and 23/08/2011. The applicants are also claiming declaration that the entire written as well as oral test conducted by respondent no.2 be quashed and set aside and to direct the respondents to hold fresh selection process from the stage of holding written examination by

properly constituting a three members committee in according with the G.R. dated 27/08/2014 and by constituting a five members interview committee in accordance with G.R. dated 23/08/2011. It is stated that the selection of 63 posts of Police Patil made by respondent no.2 and consequently their appointment orders also be quashed and set aside.

2. A proclamation was issued on 02/09/2015 by respondent no.2 for filling 64 posts of Police Patil at various places including Deori, Amgaon, Sadak Arujuni and Salekasa in the Revenue Division of Gondia District. Vide proclamation dated 11/09/2015, the proclamation as regard Mouza Kosabi was cancelled since the Police Patil working there, was to retire on superannuation on 28/02/2016.

3. As per the G.R. dated 23/08/2011 the process was modified and it was directed that there shall be written test of 80 marks and oral test of 20 marks. Thereafter vide G.R. dated 22/08/2014 it was directed that there shall be bench mark of 45% out of 80%, i.e., 36 marks out of 80 marks for the written test for qualifying for the oral test. As per G.R. dated 27/08/2014 a Committee was to be constituted for written examination. The applicants submitted that the respondents did not follow the guidelines in the said G.R., instead of Sub Divisional Police Officer (SDPO) to be present in the Committee, Police Inspector was deputed and SDPO remained absent. The entire process therefore is in total disregard to the

established procedure and therefore it is required to be quashed and set aside. In the reply affidavit the respondents have taken preliminary objection. It is stated that the applicants have applied for Police Patil for different villages and they are claiming declaration as regards entire 63 posts for different villages. The selection process was completed and the final selection list of candidates was also published and since the applicants were unsuccessful in getting jobs, they have filed this O.A. which is not maintainable.

4. According to respondents, respondent no.2 has disqualified the candidature of the applicants for the post of Police Patil on the ground that they have obtained less marks in overall allotted marks i.e. written examination and oral interview and as such they were not eligible.

5. As regards the written examination, it is stated that as per G.R. dated 27/08/2014 a Committee was formed of which following were members :-

Sub-Divisional Executive Magistrate, Deori	: Chairman
Sub-Divisional Police Officer Deori/Amgaon	: Member
Tahsildar, Amgaon	: Member
Tahsildar, Deori	: Member
Tahsildar, Salekasa	: Member
Tahsildar, Sadak Arjuni	: Member

6. It is further stated that the oral interview was conducted by the Committed of which following were members :-

Sub-Divisional Executive Magistrate, Deori	: Chairman
Tahsildar of concern Tahsil	: Member/ Secretary
Sub-Divisional Police Officer Deori/Amgaon	: Member
Social Welfare Officer, Gondia	: Member
Project Office, Deori	: Member

7. The respondents have admitted that the SDPO was not available when the oral interview was taken and therefore the SDPO sent the Police Inspector in his place and in order to avoid hardship and financial loss to number of candidates called for oral interview. The interviews were taken by the Committee in which the representative of SDPO was there. The learned P.O. submits that the Police Inspector is also a Class-I post and no prejudice has been caused to the applicants. Since the applicants were unsuccessful they have filed this O.A.

8. The learned counsel for the applicants has placed reliance on the Judgment delivered by the Hon'ble High Court of Judicature at Bombay, Nagpur Bench in W.P.No.1664/2014 in **Sandip Namdeo Navghare and Ors. Vs. State of Mah. & Ors.**, on 19/08/2014. In the said Judgment the issue of competent committee was under

consideration in respect of appointment of Police Patil and the Hon'ble High Court has observed as under :-

“ By this petition, the petitioners impugn the order of the Maharashtra Administrative Tribunal dated 26/02/2014 allowing the original application filed by the respondent nos. 4 to 10 and quashing the appointment of the petitioners on the post of Police Patil in the respective villages.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that the Tribunal was justified in allowing the original application filed by the respondent nos.4 to 10 and setting aside the appointment of the petitioners on the post of Police Patil. It appears that though the Enquiry Committee consisted of five members and though two of the members were not present in the Committee while conducting the interviews of the petitioners and the other candidates, the proxys/representatives of the two members interviewed the candidates along with the other three members of the Committee and allotted marks to them. The Tribunal rightly held that when 'A' and 'B' were appointed as members of the Committee, only 'A' and 'B' could have acted as members of the Committee and they could not have sent their representatives on the Committee for conducting the interviews of the candidates. Since the selection process was vitiated, the Tribunal rightly held that the appointment of the petitioners on the post of Police Patil was bad in law. The Tribunal rightly relied on the Government Resolution dated 23/08/2011 while allowing the original application filed by the respondent nos.4 to 10. Since it was necessary for the members of the Committee to remain present at the time of

conducting the interviews and since the interviews could not have been conducted by the representatives of the members on the Committee, we find no fault with the impugned order of the Tribunal, allowing the original application filed by the respondent nos. 4 to 10 and quashing the appointment of the petitioners on the post of Police Patil.

Since the order of the Tribunal is just and proper, the writ petitioner is dismissed with no order as to costs.

The respondent no.3 may conduct the interviews in accordance with law and make the appointments of the suitable candidates within a period of two months. Order accordingly.”

9. The learned counsel for the applicants has also placed reliance in **2016 ALL SCR 1795 State of Punjab & Ano. Vs. Brijeshwar Singh Chahal & Ano.** wherein need to adopt a selection process which is fair, reasonable and non-discriminatory has been reiterated by the Hon'ble Apex Court.

10. The learned counsel for the applicant submits that the facts of the present O.A. are exactly analogues with those considered by the Hon'ble High Court as above and therefore necessary order be passed in view of this Judgment.

11. It is material to note that in the aforesaid petition the original respondents have filed the Writ Petition as their appointments were quashed. In the present case though only anomaly seems to be

with the interview committee is that on the date of oral interview one of the members of the committee i.e. SDPO was not available and therefore the SDPO sent his representation which was a Police Inspector. The respondents have already explained in their affidavit as to under what circumstances the representative of the Members was allowed except this there seems to be no illegality in the selection process.

12. The learned P.O. submits that the applicants have no locus standi to file application since they have participated in the process and they allowed the selection list to be published and when noticed that their names were not included in the selection list they have filed application. The application therefore has been filed with malafide intention.

13. The learned P.O. has placed reliance on the Judgment reported in 1986 (supp) SCC 285 **OM Prakash Shukla Vs. Akhilesh Kumar Shukla & Ors.** In the said Judgment Hon'ble Apex Court has observed in para-24 as under :-

“(24) Moreover, this is a case where the petitioner in the writ petition should not have been granted any relief. He had appeared for the examination without protest. He filed the petition only after he had perhaps realised that he would not succeed in the examination. The High Court itself has observed that the setting aside of the results of the

examinations held in the other districts would cause hardship to the candidates who had appeared there. The same yardstick should have been applied to the candidates in the district of Kanpur also. They were not responsible for the conduct of the examination.”

14. The learned P.O. then placed reliance on the Judgment reported in **(2010) 10 SCC,707 Shri Girjesh Shrivastava & Ors. Vs. State of Madhya Pradesh & Ors.**, wherein it has been held that the PIL in service matters is not maintainable. The learned P.O. submits that in the present petition the pleadings shows that the applicants want to challenge the selection process for entire posts as if it is a PIL. However the applicants them self were interested since they were not selected in the process. It is material to note that the applicants have taken part in the process of selection for some of the posts of Police Patil. They have absolutely no locus to challenge the process in respect of other candidates i.e. in case of other posts for which they did not participate in the process.

15. The learned P.O. thereafter relied on the Judgment in **(2001) 3 SCC 328 Buddhi Nath Chaudhary & Ors. Vs. Abahi Kumar & Ors.** In the said case, the appointments were challenged to be improper and it was held that the appointments made long back pursuant to a selection need not be disturbed. In para-5&6 of the Judgment, the Hon'ble Supreme Court has observed as under :-

“(5) We fail to understand as to how the matter of selection and appointment to a post could have been entrusted to the Transport Commissioner when the Commission had been specifically entrusted with such a job and such Commission, which is an autonomous authority having a constitutional status, has selected the candidates whose appointments were in challenge. If the selection of these candidates was improper the same should have been set aside with appropriate directions to redo the process of selection of at best, the High Court could have directed the Government, which is the appointing authority, to take appropriate steps in the matter. However, in the facts and circumstances of this case, we need not dilate on this aspect nor do we need to examine various elaborate contentions addressed by either side. Suffice to say that all the selected candidates, who are in employment, except one, possess necessary qualification and in regard to that one excepted candidate, it cannot be disputed that he possesses equivalent qualification. Thus the dispute narrows down to one aspect, that is, the selected candidates may not possess necessary experience which is now required to be examined by the Transport Commissioner.

(6) The selected candidates, who have been appointed, are now in employment as Motor Vehicle Inspectors for over a decade. Now that they have worked in such posts for a long time necessarily they would have acquired the requisite experience. Lack of experience, if any, at the time of recruitment is made good now. Therefore, the new exercise ordered by the High Court will only lead to anomalous

results. Since we are disposing of these matters on equitable consideration, the learned counsel for the contesting respondents submitted that their cases for appointment should also be considered. It is not clear whether there is any vacancy for the post of Motor Vehicle Inspectors. If that is so, unless any one or more of the selected candidates are displaced, the cases of the contesting respondents cannot be considered. We think that such adjustment is not feasible for practical reasons. We have extended equitable considerations to such selected candidates who have worked in the post for a long period, but the contesting respondents do not come in that class. The effect of our conclusion is that appointments made long back pursuant to a selection need not be disturbed.”

16. The learned P.O. thereafter placed reliance the Judgment reported in **2008 (1) Mh.L.J. 358 Union of India & Ors. Vs. Vinodh Kumar & Ors.** In para-18 of the Judgement the Hon’ble S.C. has observed as under :

“(18) It is also well settled that those candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same. (See Munindra Kumar Vs. Rajiv Govil, AIR 1991 SC 1607) [See also Rashmi Mishra Vs. M.P. Public Service Commission, (2006) 11 SCALE 5]”

17. The Id. P.O. then placed reliance on Judgment reported in O.A.No. 628/2015 (Sou. Saraswati w/o A. Thorwe Vs. State of Maharashtra & Ors.) delivered by this Tribunal on 07/01/2017. It is a similar case wherein the appointments were made as per the provision of Maharashtra Village Police Patils (Recruitment, Pay and Allowances and other conditions of Services) Order, 1968 and the process was upheld.

18. The selected candidates were not earlier joined as respondents in this case but consequently the selected candidates have been joined as respondent nos.3 to 60. The learned counsel for respondent nos.3 to 60 has placed reliance on the Judgment delivered by Apex Court reported in **(1995) 3 SCC 486 Mandanlal & Ors. Vs. State of Jammu and Kashmir & Ors.** In para-9 of the said Judgment the Hon'ble Apex Court has observed as under :-

“(9) Before dealing with this contention, we must keep in view the salient fact that the petitioners as well as the contesting successful candidates being respondents concerned herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview. Up to this stage there is no dispute between the parties. The petitioners also appeared at the oral interview conducted by the Members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus, the petitioners took a chance to get

themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted. In the case of Om Prakash Shukla V. Akhilesh Kumar Shukla it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a petitioner.

19. The learned counsel for the private respondent nos. 3 to 60 also placed reliance on the Judgment reported in **(2015) 11 SCC 493 Pradeep Kumar Rai & Ors. Vs. Dinesh Kumar Pandey & Ors.**, wherein it has been held that challenge to selection process after participating in interview and declaration of adverse result, held, is not maintainable. The Hon'ble Apex Court observed that once the appellants had participated in the selection process without raising objections, they cannot be allowed to challenge the process after being declared unsuccessful. The candidates cannot approbate and reprobate. Either candidates should not have participated in the

interview or they should have challenged the procedure immediately after interviews were conducted.

20. On a conspectus of discussion in foregoing paras and considering the facts that the applicants have already taken part in the selection process and never challenged the same and after declared unsuccessful, I am of the opinion that the challenge to the selection process is not bonafied and in fact the applicants have no locus standi to challenge the process once they have participated in the same. No prejudice has been caused to the applicants since the same selection committee has applied similar scale for all the candidates. No malafides are pleaded against the selection committee and therefore merely because one of the members of the committee was substituted that too by equally competent officer, it cannot be said that the process was vitiated in the given circumstances. Hence, I do not find any merits in the O.A. Hence, the following order.

ORDER

The O.A. stands dismissed with no order as to costs.

(J.D. Kulkarni)
Vice-Chairman (J).