

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.256 OF 2018

DISTRICT : SOLAPUR

Smt. Manisha Prakash Misal)
Age : 39 years, Occu : Household)
R/at Nalwadewadi (Pachegaonkhurd),)
Tal. Sangola, Dist. Solapur.)...**Applicant**

Versus

1. State of Maharashtra, through)
Secretary, Home Department,)
Mantralaya, Mumbai – 32..)

2. The Collector, Solapur District, Solapur.)

3. Sub-Divisional Officer, Mangalvedha, Sub)
Division Mangalvedha, Dist. Solapur.)

4. Tahasildar, Sangola, Tal. Sangola,)
Dist. Solapur.)

5. Sandhya Amol Nalawade,)
Adult, Indian Inhabitant,)
R/at Nalwadewadi, Tal. Sangola,)
Dist. Solapur.)...**Respondents**

Shri L. S. Deshmukh, Advocate for Applicant.

Shri S. D. Dole, Presenting Officer for Respondents 1 to 4.

Shri A. V. Bandiwadekar, learned Counsel for Respondent No.5.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 07.01.2020.

JUDGMENT

1. In the present O.A., the Applicant has challenged the impugned order dated 15.02.2018 whereby the Applicant is held not resident of village Nalwadewadi and her claim for appointment to the post of Police Patil of village Nalwadewadi is rejected.

2. Heard Shri L. S. Deshmukh, learned Counsel for the Applicant, Shri S. D. Dole, learned Presneting Officer for the Respondent Nos.1 to 4 and Shri Arvind Bandiwadekar, learned Counsel for Respondent No.5.

3. The issue posed for consideration in the present O.A. is whether the Applicant is resident of village Nalwadewadi, Tal.Sangola, Dist. Solapur and the impugned order dated 15.02.2018 rejecting her candidature for appointment to the post of Police Patil of the said village suffers from any illegality.

4. Respondent No.3-S.D.O. Mangalvedha, Dist. Solapur by Notification dated 08.11.2017 invited applications for the post of Police Patil of village Nalwadewadi amongst other villages. The recruitment of Police Patil is governed by Maharashtra Village Police Patil (Recruitment, Pay & Allowance and other Conditions of Services) Order, 1968 (hereinafter referred to as 'Order 1968' for brevity). As per clause 3(1)(c) of 'Order 1968' the candidate must be the resident of the said village to make him eligible to appoint to the post of Police Patil. The same condition is reproduced in advertisement dated 08.11.2017 whereby applications were invited for the post of Police Pati. The Applicant as well as Respondent No.5 amongst other participated in the process. The Applicant has secured highest marks. However, Respondent No.5 who was second in the merit list, lodged complaint that the Applicant is not resident of village Nalwadewadi, and therefore, ineligible for appointment to the post of Police Patil. Accordingly, inquiry was conducted by Circle Officer and on completion of enquiry, he submitted the report to S.D.O. through Tahsildar. Respondent No.3-S.D.O. in impugned order dated 15.02.2018 held that the Applicant is not resident of village Nalwadewadi and declared her ineligible for appointment.

Consequently, he appointed the Respondent No.5 as Police Patil of village Nalwadewadi.

5. Shri L. S. Desyhmukh, learned Counsel for the Applicant submits that S.D.O. while passing impugned order dated 15.02.2018 did not assigned any reason to reject the claim of the Applicant, and therefore, the order is unsustainable in law. He sought to contend that enquiry conducted by the Circle Inspector and report submitted by Tahsildar supports applicant's claim that she is resident of village Nalwadewadi but the same is ignored by S.D.O. without giving any reasons in impugned order.

6. Per contra, learned P.O. for Respondent Nos.1 to 4 and Shri Arvind Bandiwadekar, learned Advocate for Respondent No.5 support the impugned order and pointed out that the documents produced by Applicant herself invariably establishes that she is resident of village Pachegaon Khurd and not Nalwadewadi.

7. I have gone through the documents referred by learned Counsels in support of their submissions.

8. By advertisement dated 08.11.2017 applications were invited to fill in the post of Police Patil of village Pachegaon Khurd and also of village Nalwadewadi. As such, these two villages are distinct villages, and therefore, independent Police Patil was to be appointed in these villages. True, there seems to be common Gat Gram Panchayat at Pachegaon Khurd for two villages i.e. Pachegaon Khurd and Nalwadewadi. Only because there is common Gram Panchayat for these two villages, the person residing in one village would not make him resident of another village for the purpose of appointment to the post of Police Patil. In other words, Applicant must be a resident of village Nalwadewadi and his residence in Pachegaon Khurd will be of

no assistance to her. It is on this background, one needs to consider the documents placed on record.

9. Indeed, application made by the Applicant herself for appointment to the post of Police Patil itself makes it clear that she is resident of village Pachegaon Khurd. The copy of application is at Page No.46 of Paper Book (PB) wherein Applicant herself given her permanent address as village Pachegaon Khurd. Secondly, in support of her application, she had also filed declaration of small family wherein also she has given address as Pachegao Khurd which is at Page No.48 of PB. Similarly, in another declaration dated 16.11.2017 (page No.50 & 52 of PB) she has given address as Pachegaon Khurd. Suffice to say that Applicant at her own given address as Pachegao Khurd on affidavit. She seems to be eligible for the post of Police Patil of village Nalwadewadi, there being Gat Gram Panchayat but the same is totally misconceived and erroneous. For eligibility to the post of Police Patil of village Nalwadewadi, candidate must be the resident of village Nalwadewadi and candidate residing at Panchgaon Khurd cannot be said eligible for appointment to the post of Police Patil in view of Clause 3 of appointment 'Order 1968' discussed above.

10. Apart, the Resident Certificate dated 17.11.2017 (Page No. 40 of PB), Non Creamy Layer Certificate dated 17.11.2017 issued by Tahsildar (Page 43 of PB), Character Certificate issued by Superintendent of Police (R), Solapur dated 20.11.2017 (Page No.44 of PB), Voter list of the voters of village Pachegaon Khurd (Page No.85 of PB) and last but not the least the copy of Identity Card issued by Election Commission of India clearly reveals that Applicant is resident of village Pachgaon Khurd and not village Nalwadewadi in all these documents. In all these documents, there is specific reference that Applicant is resident of village Pachegaon Khurd. Insofar as Adhar Card is concerned, which is at page no.41, her address is shown c/o

Prakash Misal, Nalwadewadi, Panchegaon Khurd, Solapur. Whereas, in another Adhar Card (Page No.55 of PB) her husband's residence is shown as Pachegaon Khurd. Above all, the Applicant herself in her application filed for the post of Police Patil has given her address as Pachegaon Khurd, and therefore, now she cannot turn around to contend that she is the resident of village Nalwadewadi.

11. Only documents sought to be relied by the Applicant in her attempt that she is the resident of village Nalwadewadi is 7/12 extract of the agricultural land of her husband which is at Page No.37 of PB. However, there is no reference of any house in the said agricultural land Gat No.321 of village Nalwadewadi. If this document is excluded from consideration, there is absolutely no iota of evidence or any material to substantiate that Applicant is residing at village Nalwadewadi so as to make her eligible to appointment to the post of Police Patil of said village.

12. Now turning to the weight attached to enquiry conducted by the Circle Officer and report of Tahsildar, material to note that Respondent No.5 has furnished various documents showing the residence of Applicant at Pachegaon Khurd before Circle Officer. However, Circle Officer relying on 7/12 extract and leave and license agreement opined that Applicant is eligible for appointment to the post of Police Patil. There is no such fact finding conclusion of Circle Officer that Applicant is resident of village Nalwadewadi. Insofar as report of Talathi is concerned, all that he had furnished the report of Circle Officer to S.D.O. for necessary orders. Though, he made some observations about residence of Applicant at village Nalwadewadi that too on the basis of 7/12 extract and leave and license agreement dated 19.12.2017. Material to note that advertisement was published on 08.11.2017, therefore, subsequent leave and license agreement dated 19.12.2017 can hardly be accepted to establish the residence at

village Nalwadewadi. Suffice to say that material placed on record clearly exhibits that Applicant is resident of Pachegaon Khurd and not Nalwadewadi. In terms of 'Order 1968' as well as advertisement, candidate must be the resident of same village and acquainted to local surroundings so as to discharge the duties attached to Police Patil. Therefore, impugned order passed by S.D.O. can hardly be faulted with.

13. I see no illegality therein. Consequently, the appointment of Respondent No.5 to the post of Police Patil of village Nalwadewadi cannot be questioned by Applicant. Original Application thus devoid of merit and deserves to be dismissed.

ORDER

Original Application is dismissed with no order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Place : Mumbai
Date : 07.01.2020
Dictation taken by :
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