

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.406 OF 2018

DISTRICT : PUNE

Shri Machindra Somaji Fale.)
Age : 30 Yrs., Occu.: Agriculture,)
R/o. At/Post : Nandgaon, Tal.: Mulshi,)
District : Pune.)...Applicant

Versus

1. The State of Maharashtra.)
Through Principal Secretary,)
Home Department, Mantralaya,)
Mumbai – 400 032.)
2. The District Collector.)
Pune, having office at New Collector's)
Office Building, Opp. Sassoon Hospital,)
Station Road, Pune – 411 011.)
3. The Sub Divisional Magistrate and)
Sub Divisional Officer, Maval-Mulshi)
Sub-Division, New Administrative Bldg.,)
2nd Floor, Oppo. to Vidhan Bhavan, Pune.)
4. Shri Hari Sitaram Sanas.)
Age : 30 Yrs., Occu.: Service,)
R/o. 3, Near Vittal Mandir, Chawl No.10A))
Jaybhawani Nagar, Kothrud,)
Tal.: Haveli, District : Pune.)...Respondents

Mr. P.S. Bhavake, Advocate for Applicant.

Ms. S.P. Manchekar, Chief Presenting Officer for Respondents 1 to 3.

Mr. Amit Sale, Advocate for Respondent No.4.

CORAM : **A.P. KURHEKAR, MEMBER-J**

DATE : **11.03.2019**

JUDGMENT

1. The Applicant has challenged the appointment of Respondent No.4 as Police Patil and also seeks direction for his appointment to the post of Police Patil of Village Nandgaon, Taluka Mulshi, District Pune invoking jurisdiction of this Tribunal under Section 19 of Administrative Tribunals Act, 1985.

2. The Applicant is a resident of Village Nandgaon, Tal. Mulshi, District Pune. On 07.06.2017, the Respondent No.2 (Sub Divisional Officer, Mulshi Sub Division) issued Proclamation for recruitment to fill-in the post of Police Patil of Village Nandgaon and the last date of filing of applications was 23.06.2017. Accordingly, the Applicant as well as Respondent No.4 submitted an application for the said post. The Applicant contends that the Respondent No.4 is the resident of Kothrud, Pune and not the resident of Village Nandgaon, and therefore, ineligible for the appointment to the post of Police Patil in view of specific terms and conditions mentioned in Proclamation issued by Respondent No.2. The Applicant made complaint dated 27.06.2017 challenging the eligibility of Respondent No.4 for the post of Police Patil of Village Nandgaon. Despite objections raised by the Applicant, the Respondent No.2 continued the process. The Applicant and Respondent No.4 both appeared in written examination as well as in oral interview. In final analysis, the Applicant secured 66 marks whereas the Respondent No.4 secured 70 marks out of 100. Thereafter again, the Applicant raised objection on 12.12.2017 about the eligibility of Respondent No.4 and prayed for cancellation of candidature of Respondent No.4 with reference to the provisions of Maharashtra Village Police Patil (Recruitment, Pay & Allowances and other conditions of Service) Order, 1968 (hereinafter referred to as 'Recruitment Order 1968'). The Applicant collected the documents invoking the

provisions of Right to Information Act and found that the Respondent No.4 got his name deleted from the Ration Card of Kothrud, Pune and got his name entered in the Ration Card of his uncle to show his residence of Village Nandgaon on 14.06.2017 after the issuance of Proclamation dated 07.06.2017.

The Applicant, therefore, contends that the Respondent No.4 is not resident of Village Nandgaon, and therefore, not eligible for the appointment to the post of Police Patil of Village Nandgaon in the light of provisions of 'Recruitment Order 1968'. However, the Respondent No.3 issued the order dated 01.03.2008 thereby appointing Respondent No.4 as Police Patil of Village Nandgaon. Being aggrieved by it, the Applicant is challenging the said order and sought declaration that he be appointed as Police Patil of Village Nandgaon.

3. The Respondent Nos.1 to 3 resisted the application by filing Affidavit-in-reply on behalf of Respondent No.3 (Page Nos.104 to 109 of Paper Book) and denied the entitlement of relief claimed by the Applicant. The Respondents contend that, as per the documents submitted by Respondent No.4, he was shown resident of Village Nandgaon, and therefore, the decision of appointment of Respondent No.4 as Police Patil cannot be faulted with. The complaints and objections raised by the Applicant about the eligibility of candidature of Respondent No.4 were dealt with appropriately and having found no substance, the same were rejected. The Respondents 1 to 3 on these pleadings prayed to dismiss the application.

4. The Respondent No.4 filed Affidavit-in-reply (Page No.116 to 121 of P.B.) and denied the allegations made by the Applicant against him. He contends that, originally he belongs to Village Nandgaon, Tal. Mulshi, District Pune, which is 35 kms. away from Pune City. His father has joint family agricultural land at Village Nandgaon. He further contends that his father though originally resident of Nandgaon, he shifted to Pune in search of job and started residing at Kothrud.

The Respondent No.4 further admits that he born and educated at Pune. However, he contends that in 2014, on the request of his uncle Shivram D. Hanas, he shifted to Village Nandgaon to help him to cultivate agricultural lands. As such, he became family member of his uncle and on application of his uncle, his name was entered in the Ration Card of Village Nandgaon on 14.06.2017. He also got his name deleted from the Ration Card of Kothrud, Pune on 12.06.2017. As such, he sought to contend that since 2014, he is residing at Village Nandgaon and was eligible for the appointment of Police Patil. He got highest marks, and therefore, the Respondent No.3 rightly appointed him as Police Patil of Village Nandgaon. The Respondent No.4, therefore, contends that the objections raised by the Applicant are devoid of merit and his order of appointment as Police Patil is legal and valid.

5. Shri P.S. Bhavake, learned Advocate for the Applicant vehemently urged that the Respondent No.4 is not the resident of Village Nandgaon and only after issuance of Proclamation for the post of Police Patil, the Respondent No.4 sought to create evidence by entering his name in the Ration Card of his uncle to show his residence of Nandgaon, though in fact, since birth, he is the resident of Kothrud, Pune. He pointed out that, as per the provisions of 'Recruitment Order 1968', person should be resident of the Village concerned and must be acquainted with all the circumstances of the Village. However, in the present case, despite the objections and complaints made by the Applicant, the Respondent No.3 appointed Respondent No.4 as Police Patil of Village Nandgaon. He has further pointed out that, except the insertion of name in Ration Card of his uncle, that too, after issuance of Proclamation, there is absolutely no other iota of evidence to establish that he is the resident of Village Nandgaon, and therefore, the impugned order dated 01.03.2018 is *ex-facie* illegal.

6. Shri Bhavake, learned Advocate for the Applicant placed reliance on the Judgment of Hon'ble Supreme Court in **(2013) 11 SCC 58 (Rakesh Kumar Sharma**

Vs. State (NCT of Delhi) & Ors. wherein the ratio is that the candidate must acquire necessary qualification on the cut-off date i.e. the last date of submission of application for the post he applied and subsequent acquisition of qualification will not relate back to the cut-off date. In that case, the Appellant did not possess requisite eligibility on the prescribed date, and therefore, held ineligible for appointment to the post.

7. Per contra, Ms. S.P. Manchekar, learned Chief Presenting Officer submitted that, as per the documents submitted by Respondent No.4 along with his application for the post of Police Patil of Village Nandgaon in view of Ration Card, he was found resident of Nandgaon, and therefore, the decision of Respondent No.3 appointing Respondent No.4 as Police Patil of Village Nandgaon is legal and correct.

8. Whereas Shri Amit Sale, learned Advocate for Respondent No.4 reiterated the contentions raised in the Affidavit-in-reply and contends that, though the Applicant was born and brought up at Kothrud, Pune, he shifted to Nandgaon in 2014 and accordingly, his name was entered in the Ration Card of his uncle on 14.06.2017 i.e. before cut-off date for filing of the application for the post of Police Patil. As such, according to him, the Respondent No.4 was eligible for the appointment of Police Patil, and therefore, the challenge to the appointment is without any substance.

9. At this juncture, it would be apposite to reproduce relevant provisions of 'Recruitment Order 1968' for correct appreciation.

“3. Eligibility for appointment.- No person shall be eligible for being appointed as a police patil who

- (a)
- (b)
- (c) Is not a resident of the village concerned.

5. Selection of Police Patils.- (1)

(2) In making the selection, the competent authority shall take into consideration whether the applicant is known to the villagers, is acquainted with all the circumstances of the village, and is possessed of landed property in the village.”

10. As rightly pointed out by Shri Bhavake, learned Advocate for the Applicant that the Government of Maharashtra by Corrigendum dated 03.11.2016 deleted the stipulation that the Applicant should possess landed property in the Village. The Corrigendum is as follows :

“अर्जदार ब्यक्ती त्याच गावचा स्थानिक रहिवासी असावा. त्याचे मालकीचे / वडीलोपार्जित जमिन किंवा घर त्या गावी असावे.”

11. In view of submissions advanced at the Bar and in the light of pleadings and documents placed on record, the following factors emerges as an admitted position.

- “(i) Respondent No.3 had issued Proclamation inviting the applications for the post of Police Patil of Village Nandgaon on 07.06.2017 and the last date for submission of application along with the documents was 23.06.2017 (Page Nos.17 to 27 of P.B.).
- (ii) As per Condition No.3 of Proclamation, the Applicant should be resident of the concerned Village.
- (iii) Respondent No.4 got his name deleted from the Ration Card at Kothrud, Pune on 12.06.2017 (Page No.98 of P.B.).
- (iv) Uncle of Respondent No.4 (Shivram D. Sanas) made an application to Tal. Mulshi on 13.06.2017 for inclusion of name of Respondent No.4 along with him in Ration Card (Page No.97 of P.B.).
- (v) The name of Respondent No.4 was first time taken in the Ration Card of Village Nandgaon on 14.06.2017 (Page No. 99 of P.B.).
- (vi) Admittedly, Respondent No.4 born and brought up at Kothrud, Pune, as seen from Page Nos.80, 83, 91 and 92 of the P.B.). The Sarpanch, Gram Panchayat, Nandgaon by his Certificate dated 25.07.2017 certified that there was no entry of the name of

Respondent No.4 in Voter list or Ration Card of Nandgaon till 08.06.2017 (Page No.93 of P.B.).

(vii) The name of Respondent No.4 was enrolled in the Voter list of Kothrud Legislative Constituency (Page No.95 of P.B.).

12. As such, admittedly, in so far as documentary evidence is concerned, for the first time, the Respondent No.4 got his name added in Ration Card of his uncle on 14.06.2017. True, it was before the cut-off dated of filing of application which was 23.06.2017. However, the material placed on record speaks in volume that the Respondent No.4 was the resident of Kothrud, Pune and by inserting his name in Ration Card of his uncle, he tried to create evidence of his residence.

13. The learned Advocate for Respondent No.4 tried to contend that Respondent No.4 has shifted to Village Nandgaon in 2014 as certified by Talathi in his Certificate dated 19.06.2017 which is at Page No.73 of P.B. This Certificate seems to have been issued by Talathi on the request of Applicant, as per the note below the Certificate. In this Certificate, the Talathi has stated that the Applicant is staying at Nandgaon from three years. However, save and except this Certificate, no other supporting documents are forthcoming. Even the Certificate is conspicuously silent as to on what basis, it has been issued. In fact, this content of Certificate that the Applicant is staying at Nandgaon from three years run counter to the admitted fact that, for the first time, the Respondent No.4 got his name entered in Ration Card of his uncle on 14.06.2017. This being the position, no reliance can be placed on Certificate issued by Talathi.

14. Interesting to note that, in view of the objections raised by the Applicant, the Respondent No.2 had called the report of Taluka Mulshi as well as Revenue Circle Officer, Mulshi. This report is at Page Nos.111 to 113 of P.B. In report, they have pointed out that, as per Voter list, the Respondent No.4 is the resident of Kothrud, Pune and for the first time, the Respondent No.4 got his name added in Ration Card by his uncle on 14.06.2017. They have further specifically pointed

out that the name of Respondent No.4 does not appear in the Voter list of Nandgaon prior to 2017. At the end of report, the Tahasildar as well as Revenue Circle Officer, Mulshi has stated that the documents of residence submitted by Respondent No.4 was of 2017 only. Strangely, despite this fact finding report, the Respondent No.3 by letter dated 27.04.2018 (Page No.115 of P.B.) stated that, in view of report of Tahasildar and Circle Officer, the Respondent No.4 is the resident of Nandgaon and accordingly, rejected the objection raised by the Applicant. Thus, it is quite clear that the Respondent No.3 did not apply mind and mechanically rejected the application without considering the provisions of 'Recruitment Order 1968'.

15. As per Clause 5(2) of 'Recruitment Order 1968' as reproduced above, the requirement is that the person is known to the villagers and he should be acquainted with all the circumstances of the Village. Thus, the Respondent No.3 was under obligation to consider the said Clause in letter and spirit. The object behind it, that the person who is stranger or resident of some other place should not be appointed to the post of Police Patil because of the duties and obligations attached to the post of Police Patil.

16. The perusal of Maharashtra Village Police Patil Act, 1967 reveals that, he needs to work under the supervision of Executive Magistrate and responsible to collect the information and communicate to the Police Station Officer on the matters affecting the public peace. He is also expected to afford every assistance in his power to all Police Officers when called upon in performance of their duties and is also expected to execute the orders and warrants issued to him by learned Magistrate and Police Officers. As such, the Police Patil performs the duties as a representative of District Magistrate and also works as a part of Police Force. Suffice to say, Police Patil plays an important role in the administration concerning public peace and law and order situation.

17. It is thus quite clear that the person to be appointed as Police Patil should not be only resident of the Village concerned, but he must be known to the villagers and is acquainted with all the circumstances of the Village. In other words, even if the person is only shown technically resident of the Village, but not acquainted to the Villagers and all the circumstances of the Village is not entitled to the post of Police Patil. The Police Patil is required to stay in a Village continuously and to have inter-action with the villagers, so that he is aware of the prevailing situation in the Village and if need arises, he can give input to the Police authorities in the situation like creating nuisance for law and order in the Village. However, the Respondent No.3 failed to consider this aspect and mechanically rejected the objection raised by the Applicant.

18. In view of aforesaid discussion, it is quite clear that the Respondent No.4 tried to create evidence of his residence for the first time on 14.06.2017 and there is no any other evidence to show his residence in Nandgaon, so as to infer that he is known to the villagers or is acquainted with all the circumstances of Village Nandgaon. He has not filed Affidavit of a single person of Nandgaon to show his residence and acquaintance with villager of Nandgaon. This being the position, the mere addition of name in Ration Card on 14.06.2017 cannot be the basis to form the opinion that he is the resident of Nandgaon and is acquainted with all the facts and circumstances of the Village and is known to the villagers. The impugned order is, therefore, unsustainable in law and facts and deserves to be set aside. Resultantly, the Applicant who has secured highest marks next to Respondent No.4 deserves to be appointed to the post of Police Patil of Village Nandgaon. Consequently, the O.A. deserves to be allowed. Hence, the following order.

ORDER

(A) The Original Application is allowed.

- (B) The impugned order dated 01.03.2018 appointing Respondent No.4 as Police Patil is quashed and set aside.
- (C) The Respondent Nos.1 to 3 are hereby directed to appoint the Applicant in the post of Police Patil of Village Nandgaon, Tal. Mulshi, District Pune and to issue necessary orders within two weeks from today.
- (D) No order as to costs.

Sd/-
(A.P. KURHEKAR)
Member-J

Mumbai

Date : 11.03.2019

Dictation taken by :

S.K. Wamanse.

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