

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**ORIGINAL APPLICATION No.53 of 2019**

**DISTRICT : Raigad**

Mrs. Jagruti Jalinder Khaire, )  
Naib Tahasildar, Tahasil Road, Dist. Pune. ) **...Applicant**

Versus

1. The Sub Divisional Officer and Executive Magistrate )  
Roha, Taluka Roha, Dist. Raigad. )
2. The District Executive Magistrate, Alibag Raigad )
3. The Tahsildar Roha. )
4. Mr. Navnath G. Lahane, R/at Post Nandgaon, )  
Tal. Sudhagad ) **...Respondent**

Shri Pagare holding for Shri Joshi, Counsel for the Applicant  
Shri A. J. Chougule, Presenting Officer for the Respondent Nos.1 to 3  
Shri Hitesh Mohite, Counsel for the Respondent No.4.

CORAM : SHRI A. P. KURHEKAR , MEMBER (J)

DATE : 11.11.2019

**ORDER**

1. In the present matter, the Applicant has challenged the impugned order dated 07.10.2016 whereby she is held ineligible for the post of Police Patil of village Nandgaon, Tal. Sudhagad, Dist. Raigad and appointment of Respondent No.4 to the said post invoking the jurisdiction of this Tribunal u/s 19 of Administrative Tribunal Act, 1985.

2. The Applicant and the Respondent No.4 both claim to be resident of village Nandgaon, Tal. Sudhagad, Dist. Raigad. The Respondent No.1, S.D.O. Roha had issued advertisement on 27.06.2016 to fill in the post of Police Patil of village Nandgaon. Accordingly, the Applicant as well as Respondent No.4

both applied and participated in the process undertaken by the S.D.O. However, the Applicant was found not eligible for the appointment on the ground that she did not have SSC qualification as required in advertisement, and therefore, by order dated 07.10.2016 her candidature was rejected. By the same order the Respondent No.4 was appointed to the post of Police Patil.

3. The Applicant has challenged the impugned order contending that rejection of her candidature is erroneous, and further contends that appointment of Respondent No.4 to the post of Police Patil is also illegal on the ground that he is not resident of village Nandgaon and this aspect is totally ignored by the S.D.O. despite the objections raised by the Applicant in this behalf from time to time. The S.D.O. rejected the objection of applicant by order dated 09.11.2016.

4. Heard Shri Pagare holding for Shri Joshi, learned Counsel for the Applicant and Shri A. J. Chougule, learned Present Officer for the Respondent Nos.1 to 3 and Shri Hitesh Mohite, learned Counsel for Respondent No.4.

5. In so far as ineligibility of the Applicant to the post of Police Patil is concerned, admittedly, minimum educational qualification was SSC. However, admittedly she has not passed SSC. Perusal of impugned order dated 07.10.2016 reveals that she has enrolled herself in Yashwantrao Chavan Open University (YCOU) for F.Y.B.A. in August, 2016 but could not clear three subjects. It appears, on the basis of her enrollment in YCOU, her application for the post of Police Patil was considered. It was revealed that she has not passed SSC and enrollment with YCOU for S.Y.B.A. is not equivalent to SSC. Therefore, rejection of her candidature of not being SSC which was mandatory requirement cannot be faulted with. Suffice to say, the Applicant was not at all eligible to apply for the post of Police Patil. To this extent, I see no reasons to interfere in the impugned order dated 07.10.2016.

6. Now turning to the appointment of Respondent No.4 to the post of Police Patil his appointment is challenged by the Applicant contending that he is not resident of village Nandgaon but he was residing at Pali, and therefore, the order of appointment is illegal. Admittedly as per the Notification, the candidate must be eligible and acquainted with the local situation of the concerned village for the appointment to the post of Police Patil. The Applicant has raised objection with S.D.O. on 25.07.2016, 05.08.2016, 19.08.2016 that the Respondent No.4 is residing at Pali and not entitled to the appointment.

7. Learned Counsel for the Applicant has also pointed out that the Applicant had entered into leave and license agreement with Surekha Khaire on 03.02.2015 and had taken her premises for residence for eleven months. It was also renewed for next eleven months by agreement dated 15.07.2016. Furthermore, the Circle Officer had also recorded the statement of the Respondent No.4, his wife and his father. Respondent No.4's wife in her statement dated 08.08.2016 stated that she is residing with her husband at Pali. The Applicant has also stated in his statement that he is residing in the rented premises of Smt. Khaire at Pali and doing business of mobile repairing. He sought to add that he is original resident of village Nandgaon and in future if selected, he will shift to village Nandgaon. His father also admits in his statement that his son and his wife are residing at Pali. The Circle Inspector had also prepared Panchnama. Thus, it is explicit from their statement that the Respondent No.4 was not residing at village Nandgaon.

8. However, objections raised by the Applicant was rejected by the S.D.O. on 09.11.2016. While rejecting the objections, S.D.O. referred School Leaving Certificate, Ration Card, Adhar Card and certificate issued by the Grampanchayat. However, he did not advert to the statements made by the Applicant, his wife and father. Besides, no opportunity was given to the Applicant to substantiate her objection. Indeed on receipt of report of Circle officer, the S.D.O. was required to give opportunity of hearing to the Applicant

as well as Respondent No.4 and thereafter to pass appropriate order in accordance to law. However, without giving opportunity of hearing to the Applicant, he rejected the objection without giving any reasons.

9. Learned P.O. on instructions from Shri Koshti D. S., Naib Tahsildar, Sudhagad, Pali also fairly concedes that no such opportunity of hearing was given by the Respondent No.1. Thus, what transpires from the statement of the Applicant is that Respondent No.4, his wife and father are actually not residing at Nandgaon. Besides this position, S.D.O. had appointed Respondent No.4 without giving any opportunity of hearing to the Applicant and without giving any reasons to ignore the statement of the Applicant, his wife and father. Respondent No.1 was required to see whether the person to be appointed to the post of Police Patil is factually the resident of village Nandgaon and acquainted with the local surrounding and situation so that he can fulfil duties and obligations imposed upon him u/s 6 of Maharashtra Village Police Act, 1967, which is as follows :-

**“SECTION 06: DUTIES OF POLICE-PATIL**

Subject to the orders of the District Magistrate, the Police-patil shall, -

- (i) act under the orders of any other Executive Magistrate within whose local jurisdiction his village is situated;
- (ii) furnish such returns and information as may be called for by such Executive Magistrate;
- (iii) constantly keep such Executive Magistrate informed as to the state of crime and all matters connected with the village police and the health and general condition of the community in his village;
- (iv) afford every assistance in his power to all Police Officers when called upon by them in the performance of their duty;
- (v) promptly obey and execute all orders and warrants issued to him by a Magistrate or Police Officer;

(vi) collect and communicate to the Station Officer intelligence affecting the public peace;

(vii) prevent within the limits of his village the commission of offences and public nuisances, and detect and bring offenders therein to justice;

(viii) perform such other duties as are specified under other provisions of this Act, and as the State Government may, from time to time, by general or special order specify in this behalf.”

10. Suffice to say, the Respondent No.1 was required to see whether the Respondent No.4 is eligible for appointment to the post of Police Patil. However, he rejected the objection raised by Applicant without giving any reasons ignoring the statements made by the Respondent No.4 and his family and appointed Respondent No.4. Therefore, it would be appropriate to remand the matter to Respondent No.1 for decision afresh. Impugned order dated 07.10.2016 to the extent of appointment of Respondent No.4 to the post of Police Patil and order dated 09.11.2016 rejecting the objection raised by the Applicant are quashed and set aside being unsustainable in law. The order of Respondent No.1 dated 07.10.2016 declaring the Applicant ineligible to the post of Police Patil for want of requisite qualification is maintained.

### **ORDER**

(A) Original Application is allowed partly.

(B) Impugned order dated 07.10.2016 to the extent of appointment of Respondent No.4 to the post of Police Patil is quashed and set aside.

(C) Impugned order dated 09.11.2016 rejecting the objection raised by the Applicant is quashed and set aside.

(D) The matter is remitted back to Respondent No.1 i.e. S.D.O., Raigad to decide the issue of residence of Respondent No.4 of village Nandgaon afresh after giving opportunity of hearing to the Applicant as well as Respondent No.4.

(E) He shall hear the Applicant as well as Respondent No.4 and shall pass appropriate order within two months from today regarding eligibility and fulfillment of criteria of Respondent No.4 to the post of Police Patil of village Nandgaon and it shall be communicated to the Applicant and Respondent No.4 within two weeks thereafter.

(F) The Applicant or Respondent No.4, if felt aggrieved by the decision as the case may be, they may take further recourse of law.

(G) No order as to costs.

Sd/-  
**(A. P. KURHEKAR)**  
**MEMBER (J)**

