

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 55 /2017**

Shri Rahul S/o Ramchandraji Tagde,  
Aged about    years,  
Occ. Agriculturist, R/o House no.13,  
Sawangi (Shetaki), Tq. Kalmeshwar,  
District Nagpur.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Secretary,  
Department of Home, Mantralaya,  
Mumbai-32.
- 2) Sub- Divisional Magistrate,  
Tahsil Saoner,  
District : Nagpur.

**Respondents**

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Shri S.B. Tiwari, E.S. Sahasrabuddhe, Advocate for the applicant.

Shri V.A. Kulkarni, Id. P.O. for respondents.

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

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**JUDGEMENT**

**(Delivered on this 11<sup>th</sup> day of April,2017)**

Heard Shri S.B. Tiwari, Id. counsel for the applicant and  
Shri V.A. Kulkarni, Id. P.O. for the respondents.

2.           The applicant Rahul R. Tagde has applied for the post of  
Police Patil of village Sawangi (Shetaki), Tq. Kalmeshwar, District

Nagpur from the general category in view of the advertisement published on 7/8/2015. Admittedly, in the written test he secured 71 out of 80 marks and in oral test 13 out of 20 marks. Thus he has secured a total 84 out of 100 marks and stood first amongst the successful candidates. He was expecting the posting order but his name did not figure in the final selection list published by the respondents. He has therefore filed this O.A. According to the applicant, he is not being given appointment order on the ground that he does not own an immovable property at Village Sawangi (Shetaki). This condition in the advertisement is not legal and therefore the applicant is claiming a declaration that the said condition is inconsistent with the Act and Rules governing the Recruitment of Police Patil and as such ultra virus. He is also claiming appointment.

3. According to the respondents, the Home department Government of Maharashtra has issued G.R. No. BVP 0299/ CR 56/ Pol-8, dated 7<sup>th</sup> September, 1999 wherein the person applying for the post of Police Patil shall own the property in the village is a mandatory provisions. The applicant could not produce the document to show that he owns land at village and therefore the order is not being issued.

4. The material questioned as to whether a person applying for the post of Police Patil shall own land in the village where he is to be appointed as Police Patil has been dealt with by various course. In the Judgment reported in **1993 (3) Mh.L.J.,594 Arun Tukaram Patil Vs. State of Maharashtra & Ors.**, wherein it has been held that possession of a landed property is not a criteria for eligibility in the matter of appointment as Police Patil under Maharashtra Village Police Patils (Recruitment, Pay, Allowances and Other Conditions of Service) Order,1968 under regulation 3 (c), clause 5 (2) is not a criteria for eligibility. It has been held in **2015 (4) Mh.L.J.,799 Rajesh Krishna Kale Vs. State of Maharashtra & Ors.**, that holding of land in own name is not mandatory for a person aspiring for appointment as Police Patil. The G.R. dated 7/9/1999 has no overriding effect on statutory provisions of Order of 1968. Similar view has been taken by the Hon'ble High Court of Judicature at Bombay Bench at Nagpur in W.P.No.2880/2016 in the case of **Smt. Rekha Prabhakarji Wankhede Vs. State of Maharashtra, through its Secretary, Department of Home & Ors.** and also the pronouncement of this Tribunal in O.A.739/2015 in the case of **Shrawan Wasudeo Mowade Vs. State of Maharashtra & 2 ors.**, on 7/4/2016 and O.A. 773/2015 in the case of **Smt. Vibha w/o Kishor Bhoyar ors.**, pronounced on 5/5/2016.

5. In view of the aforesaid legal provisions it will be clear that ownership of property in the village cannot be held to be eligibility conditions for appointment of Police Patil. The condition no.3 of the advertisement "vtnhjktoG xkokr Lor%ps ekydph LFkkoj ekyeRrk vI ko; kl i kfgt\*\* is thus illegal. The G.R. Making it compulsory for the candidate to be appointed as Police Patil to own landed property in the village for which he is going to be appointed as Police Patil is therefore illegal. Admittedly the applicant stood first in merit and therefore there is no legal to deny appointment to him. Hence, the following order.

### **ORDER**

(i) The O.A. is allowed. In terms of prayer clause (ii) & (iii) & (iv) necessary appointment order shall be issued in favour of applicant within two months from the date of this order. No order as to costs.

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

dnk.