

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.616 OF 2018

DISTRICT : KOLHAPUR

Smt. Anuradha Mahadev Potdar)
Age : 38 years,)
R/at Ladwadi, Village Dhamod,)
Tal. Radhanagari, Dist. Kolhapur.)...**Applicant**

Versus

1. The Sub Divisional Officer,)
Radhanagri, Kagal and Division,)
Dist. Kolhapur.)
2. The Tahasildar, Nipani Fonda Road,)
Radhanagari, Tal. Radhanagari,)
Dist. Kolhapur.)...**Respondents**

Mr. S. Sakhare, Advocate for Applicant.

Shri A. J. Chougule, Presenting Officer for Respondents.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 07.10.2019

JUDGMENT

1. The Applicant has challenged the impugned order dated 28.02.2018 passed by the Respondent No.1-S.D.O. whereby he cancelled his selection to the post of Police Patil of Village Ladwadi.

Shortly stated facts are as follows:-

2. In pursuance of Notification dated 13.11.2017 issued by the Respondent No.1, the Applicant had applied for the post of Police Patil of Village Ladwadi, Tal. Radhnagari, Dist. Kolhapur. Accordingly, the Applicant participated in the process amongst other candidates and was selected to the post of Police Patil having secured highest marks.

3. However before issuance of orders of appointment, one Shri Sanjay Potdar lodged complaint to the S.D.O. that the Applicant is not the resident of Village Ladwadi and she is residing with her husband at Kolhapur and not eligible to the post of Police Patil. On receipt of the complaint, Respondent No.1 – S.D.O. sent the complaint to Tahsildar for enquiry. Accordingly, Tahsildar, Radhanagari conducted enquiry and also recorded the statement of the Applicant. In statement before Tahsildar, she stated that her husband is medical practitioner and resides at Kolhapur. She stated that she and her husband visit Ladwadi two or three days in a week and stays at Ladwadi in the house of her husband's father. On completion of enquiry, Tahsildar submitted the report to S.D.O. In turn, the S.D.O. passed the order dated 28.02.2018, thereby cancelling the selection of the Applicant to the post of Police Patil in view of the report of Tahalthi particularly her statement before Tahsildar that she only occasionally come to Village Ladwadi. The Applicant has challenged this order dated 28.02.2018 in present O.A.

4. Shri S. Sakhare, learned Counsel for the Applicant made twofold submissions. He submits that S.D.O. passed impugned order of cancellation of appointment to the post of Police Patil without giving opportunity of hearing and secondly, the documents placed on record clearly established that she is the resident of Village Ladwadi. He, therefore, submits that the impugned order is unsustainable in law.

5. Per contra, Shri A. J. Chougule, learned Presenting Officer for the Respondents submits that in view of the statement of Applicant before Talathi that she come to village Ladwadi occasionally only, findings recorded by the S.D.O. that she is not permanent resident of village Ladwadi cannot be faulted with. He further submits that as per condition mentioned in Notification, the candidate must be resident of the concerned village so as to discharge the functions and

duties of Police Patil efficiently. As regard, absence of notice before passing impugned order, learned P.O. fairly submits that there is nothing on record to show that any such notice was issued before passing the impugned order. However, he sought to contend that the Applicant was given opportunity of hearing before Talathi, and therefore, issuance of notice by S.D. O. is not necessary.

6. The Applicant has also produced the documents in the form of Caste Certificate dated 30.11.2017, Domicile Certificate dated 24.11.2017 and Adhar Card wherein the Applicant's address is shown as Ladwadi. In so far as Adhar Card is concerned, it seems to have issued on 04.06.2012. Whereas, Caste Certificate and Domicile Certificate was issued after the date of Notification to the post of Police Patil. The name of the Applicant is entered in the ration card of Village Ladwadi on 18.11.2017. As such, except Adhar Card all other documents relied by the Applicant's Counsel as a proof of resident as Lawadi are obtained subsequent to Notification which was issued on 13.11.2017. As such, it is explicit that only to facilitate filing of the application for the post of Police Patil, the Applicant got her name entered in record to show that she is the resident of Village Ladwadi.

7. There is no denying that before Talathi, the Applicant gave her statement on 09.02.2018, the relevant portion of her statement which is material for this purpose is as follows:-

“मी मौजे लाडवाडी ता.राधानगरी येथील महादेव नारायण पोतदार यांच्याशी माझा विवाह झालेला आहे. विवाह झालेपासून मी लाडवाडी येथे रहात होते. त्यानंतर माझे पती यांचे मौजे कोल्हापूर येथीं वैद्यकिय व्यवसाय करत असल्याने आम्ही आडवडयातून दोन दिवस गावी राहायला येत आहे व प्रत्येक सणानिमित्त आम्ही गावी राहायला येत असतो.”

8. As such, the Applicant herself had admitted that she resides with her husband at Kolhapur but visits village Ladwadi occasionally may be for 2-3 days in a week casually and during that visit only

resides at village Ladwadi. Admittedly, the Applicant's husband is Medical Practitioner and resides at Kolhapur.

9. As per, Notification dated 13.11.2017, the person eligible for the appointment to the post of Police Patil must be local resident and must have knowledge of local surroundings and situation of village. In this behalf Condition No.4 of Notification is material, which is as follows :-

“ अर्जदार व्यक्ती त्याच गावचा स्थानिक रहिवासी असावा. तसेच त्यास स्थानिक परिस्थितीची परिपूर्ण माहिती असावी.”

10. Thus, one of the important conditions for the appointment to the post of Police Patil is that he must be resident of concerned village and must have knowledge about the local surroundings and situation. Obviously, it is in consonance with the duties attached to the Police Patil as mentioned in Section 6 of the 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.”

11. It is thus explicit that the Police Patil must be the resident of concerned village so that he can discharge the duties entrusted to him as per Section 6 of Maharashtra Village Police Act. If a person is not a permanent resident of the concerned village but only occasionally comes to the village, cannot be said eligible to discharge the duties effectively and to assist police as mandated by Section 6 of Maharashtra Police Act. The Respondent No.1 while cancelling the selection of the Applicant has categorically observed that the Applicant being not resident of Village Ladwadi as per her own admission, she would not be in a position to discharge the duties effectively. Material to note that the Applicant had also filed application for review before the S.D.O., which is also rejected on 02.05.2018. While rejecting the application for review, the Respondent No. 1 has categorically observed that in view of the residence of the Applicant at Kolhapur in case of her appointment to the post of Police Patil of Village Ladwadi, there would be inconvenience as well as hardship to the people as they would be required to go to Kolhapur for obtaining certificates etc. whenever required by the villagers. She, therefore, held that it would not be suitable to appoint her to the post of Police Patil. This conclusion of Respondent No.1 is borne out from the statement made by the Applicant herself that she is permanent resident of Kolhapur and only occasionally visits Ladwadi. As such, the S.D.O. has recorded ample reasons for cancellation of the selection. I see no illegality therein.

12. True, before passing the impugned order, the S.D.O. had not issued show cause notice to the Applicant. However, in the present facts and circumstances, particularly when opportunity of hearing was given to the Applicant by Talathi, in my considered opinion, issuance of notice by S.D.O. is not fatal and that itself will not render, impugned order illegal. The Applicant had got ample opportunity before Talathi. As such, this is not a case that no opportunity of hearing was given to aggrieved person. Opportunity of hearing is to be given as a principle of natural justice and where no such notice is given, unless there is serious prejudice absence of hearing itself will not render the order illegal. In the present case, opportunity of hearing was given to the Applicant by Talathi, and therefore, it cannot be said that any prejudice is caused to the Applicant due to non opportunity of hearing by S.D.O. again.

13. The totality of aforesaid reason leads me to sum up that the findings of Respondent No.1 that the Applicant is not eligible and suitable to the post of Police Patil, in view of on her own statement cannot be faulted with and O.A. deserves to be dismissed.

14. Accordingly, Original Application is dismissed with no order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J