

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.662/2015.

Mahendra Shyamrao Meshram,
Aged about 35 years,
Occ :Agriculturist,
R/o Chandrapur, Tehsil Daryapur,
District Amravati.

Applicant.

Versus

- 1) The State of Maharashtra
through its Secretary,
Department of Revenue,
Mantralaya, Mumbai-32.
- 2) The Sub-Divisional Officer,
Daryapur, Distt. Amravati.
- 3) Nitin Arunrao Ganvir,
Aged Major,
Occ :Agriculturist,
R/o Chandrapur, Tehsil Daryapur,
District Amravati.

Respondents

Shri P.S. Patil, Advocate for the applicant.
Smt. S.V. Kolhe, P.O. for respondents 1 and 2.
Shri G.G. Bade, Advocate for respondent No.3.

Coram:- S.S. Hingne, Member (J)

Dated: - 24th August 2016.

Order

With the consent of parties, matter is heard and
decided at admission stage.

2. The applicant sought appointment as Police Patil of village Chandrapur, District Amravati, since he has secured highest marks.

3. Heard Shri P.S. Patil, learned counsel for the applicant, Smt. S.V. Kolhe, learned P.O. for respondent Nos. 1 and 2 and Shri G.G. Bade, learned counsel for respondent No.3.

4. Consequent to Proclamation dated 24.8.2015 (P.17, A-1) issued by Sub-Divisional Officer, Daryapur (R.2), the applicant submitted an application for which acknowledgement dated 4.9.2015 (P.22, A-3) was issued. Three persons were in the fray. The applicant secured total 60 marks, respondent No.3 secured total 56 marks and one Nilesh secured total 48 marks. The applicant having secured highest marks was expecting the appointment. However, respondent No.3 was shown to have been selected in the select list (P.27, A-7). Hence, the applicant has filed this O.A.

5. By interim relief dated 30.10.2015, the appointment was stalled till further orders.

6. The respondent No.2 filed reply (P.34) contending that the applicant submitted the application form (P.40, R.1) on 4.9.2015 alongwith an affidavit dated 28.8.2015 (P.42) stating that he does not belong to any political party and he is not a member or office

bearer of Local Self Governing Body. The applicant was Up-sarpanch of the Gram Panchayat. He has not mentioned about his resignation. Some villagers filed complaint in the matter. But the applicant remained absent in the enquiry. The applicant was not eligible for the above reasons. Hence, respondent No.3 came to be selected. The respondent No.3 is appointed vide order dated 3.11.2015. Thereafter on 5.11.2015, order dated 30.10.2015 passed by this Tribunal was received. However, the respondents stayed the said order vide order dated 4.11.2015 (P.47, R.2).

7. The respondent No.3 filed reply reiterating the above contents.

8. The applicant's case is as under:

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|----------------|--|
| (i) 24.8.2015 | Proclamation issued. |
| (ii) 26.8.2015 | Applicant resigned as a Member of Gram Panchayat (P.21, A.2). |
| (iii) 4.9.2015 | Applicant submitted application for Police Patil. |
| (iv) 28.9.2015 | Gram Panchayat accepted the resignation of the applicant on 28.9.2015 (P.24) in the meeting. |
| (v) 17.10.2015 | Intimated the applicant about acceptance of his resignation. |

9. Respondent No.3's case is that, this resignation was *ante* dated. However, copy of the Resolution (P.24) shows that the resignation was accepted in the Gram Panchayat meeting held on 28.9.2015. Interview took place on 13.10.2015 (P.26, A.6) and select list was published on 20.10.2015. Thus he had already given resignation before filing application for the post. This also demonstrates that the resignation of the applicant was already given and accepted by Gram Panchayat before he appeared for interview.

10. Apart from that, the learned counsel for the applicant placed reliance on the decision rendered by this Tribunal on 17.10.2011 in O.A. No. 376/2011 wherein it is held that, a member of political party or local body is not ineligible for appointment of Police Patil.

11. The appointments of Police Patil are made by the Sub-Divisional Officer under the provisions of Maharashtra Village Police Patil Act, 1967 (hereinafter referred to as 'Act'). Section 3 of the Act relates to eligibility for appointment of Police Patil. In exercise of powers conferred under section 5 (3) of the Act, the Government has issued Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other conditions of service) Order, 1968 (hereinafter referred to as 'Order'), regulating the appointment. Clause (3) of this Order lays down eligibility for appointment. Either of the provisions in

the Act or Order does not lay down for the member of the Local Body or Political Party to be a disqualification for appointment of Police Patil.

12. The Sub-Divisional Officer has passed the order, relying on Term No.10 in the Proclamation (P.17, A-1) which runs as under:

“Ajaadar ha kabaahil rajaklye pxaSal sabhalit nasaavaa va sqanalk svarajya sabhaabho sadsya va pdaiQakarl nasaavao tsaa yaabaat pti&ap~ \$.100 caoSTip pprvar saadr kravao tsaa %aanao rajakarNaat sahBaaga Gatt lalaa nasaavaa yaabaat palalsa sT6anacaopimallap~ jaadNaoAavaSyak Aahifo

However, this condition is not in consonance with the provisions of the Act or Order. In effect, the applicant having secured highest marks, cannot be deprived of being appointed as Police Patil for village Chandrapur, Tehsil Daryapur, District Amravati. Thus, the applicant is entitled for appointment having secured highest marks.

13. Consequently, the O.A. is allowed in the following terms:

(i) The Sub-Divisional Officer, Daryapur (R.2) is directed to issue appointment order of Police Patil in favour of the applicant for village Chandrapur, according to law.

(ii) The order be complied with within a month.

(iii) No order as to costs.

(S.S.Hingne)
Member (J)

