

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.687 OF 2020

DISTRICT : KOLHAPUR

Dr. [Sou.] Vidyadevi Ramgonda Patil.)
Age : 39 Yrs., Occu.: Medical Practitioner,)
R/o. Patil Galli, Khidrapur, Tal.: Shirol,)
District : Kolhapur.)**...Applicant**

Versus

1. The Sub-Divisional Officer-cum-)
 Chairman, Police Patil Recruitment,)
 Selection Committee, Ichalkaranji)
 Division, Ichalkaranji,)
 Tal.: Hatkanangale, Dist.: Kolhapur.)
2. Sou. Dipali Balasaheb Patil.)
 Age : Adult, Occu.: Police Patil,)
 R/o. Village Khidrapur, Tal.: Shirol,)
 District : Kolhapur.)**...Respondents**

Mr. Arvind V. Bandiwadekar, Advocate for Applicant.

Mr. A.B. Kololgi, Presenting Officer for Respondent No.1.

Mr. K.R. Jagdale, Advocate for Respondent No.2.

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

DATE : 13.07.2021

JUDGMENT

1. The Applicant has challenged the order passed by Respondent NO.1 – Sub-Divisional Officer, Ichalkaranji, District Kolhapur dated 26th August, 2020 thereby rejecting the objection/complaint made by Applicant dated 07.06.2016 about the appointment of Respondent No.2 –

Dipali B. Patil of Police Patil of Village Khidrapur, Taluka Shirol, District Kolhapur.

2. Following are the undisputed facts :-

(i) Respondent No.1 – S.D.O, Ichalkaranji issued Notification dated 24.11.2015 and 02.01.2016 to fill-in the post of Police Patil of Village Khidrapur from Open Female candidates.

(ii) The Applicant, Respondent No.2 – Dipali Patil and one Smt. Rajashree Patil had applied for the post of Police Patil in pursuance of the said Notification and appeared in written examination as well as oral interview.

(iii) On 28.01.2016, the Respondent No.1 published a select list in which Rajashree Patil was shown stood first in the recruitment process whereas Respondent No.2 – Dipali Patil stood second and present Applicant – Vidyadevi stood third.

(iv) Respondent No.1 received complaint that Smt. Rajashree Patil is resident of Village Jugul, Taluka Atni, District Belgaum and not being resident of Khidrapur objected her selection.

(v) Respondent No.1 – SDO by order dated 08.03.2016 upheld the objection and cancelled the selection of Smt. Rajashree Patil for the post of Police Patil of Village Khidrapur on the ground that she is not resident of Village Khidrapur and appointed Respondent No.2 – Dipali Patil in her place.

(vi) Applicant – Vidyadevi Patil then lodged complaint on 06.06.2016 with SDO, Ichalkaranji objecting the appointment of Respondent No.2 – Dipali Patil stating that she is not resident of Khidrapur, but she is residing at Haveli, Pune in Bhosari Legislative Constituency and also serving as Assistant Teacher at

Nigadi, Pune (Page No.62 of Paper Book). However, no further orders were passed on her complaint.

(vii) In the meantime, Smt. Rajashree Patil whose appointment was cancelled by order dated 08.03.2016 had filed O.A.No.715/2017 in this Tribunal which came to be dismissed on 15.10.2019.

3. It is on the above background, the Respondent No.1 – SDO, Ichalkaranji by order dated 26.08.2020 rejected the complaint of the Applicant objecting the appointment of Respondent No.2 as Police Patil of Village Khidrapur on the ground of non-resident of Khidrapur, which is under challenge in the present O.A.

4. Shri Bandiwadekar, learned Advocate for the Applicant sought to assail the impugned order inter-alia contending that Respondent No.2 – Dipali Patil is a resident of Haveli, Pune as reflected in Voter-list of Bhosari Legislative Assembly Elections of 2017, but she has suppressed this aspect showing to be the resident of Village Khidrapur, and therefore, in view of condition in Notification that candidate must be resident of concerned Village, she is not eligible for appointment to the post of Police Patil but Respondent No.1 – SDO rejected the complaint lodged by the Applicant. He further referred to the decision rendered by this Tribunal in O.A.715/2017 filed by Smt. Rajashree Patil wherein her candidature on the ground of dual residence has been confirmed by the Tribunal. Thus, according to him, on the same principle, the Respondent No.2 – Dipali Patil in view of her residence at Haveli as well as at Khidrapur is not eligible for appointment to the post of Police Patil.

5. Per contra, Smt. A.B. Kololgi, learned P.O. for Respondent No.1 and Shri K.R. Jagdale, learned Advocate for Respondent No.2 supported the impugned order and pointed out that there is voluminous evidence establishing that Respondent No.2 – Dipali Patil is resident of Village

Khidrapur and SDO has rightly rejected the complaint made by the Applicant.

6. There is no denying that as per one of the condition of Notification, the candidate must have been resident of concerned Village for the appointment to the post of Police Patil. The Respondent No.1 – SDO by impugned order dated 26.08.2020 rejected the complaint made by the Applicant with reasoned order observing that Applicant is resident of Village Khidrapur and since date of appointment on 08.03.2016, she is discharging her duties efficiently.

7. In view of submission advanced at the Bar, the issue posed for consideration is whether the findings recorded by Respondent No.1 – SDO that Respondent No.2 – Dipali Patil is resident of Village Khidrapur and was eligible for appointment to the post of Police Patil suffers from any infirmity and the answer is in emphatic negative.

8. In so far as decision rendered by this Tribunal in O.A.No.715/2017 is concerned, it was about legibility of Smt. Rajashree Patil for appointment to the post of Police Patil since her candidature was rejected on the ground of non-resident of Village Khidrapur. In that matter, the SDO conducted enquiry and she was found not resident of Village Khidrapur. In that O.A, Smt. Dipali Patil (Present Respondent No.2) was Respondent No.5. At this juncture, it would be apposite to reproduce Para Nos.8, 9, 10 and 13 of the Judgment rendered in O.A.715/2017, which is as under :-

“8. The Respondent No.3 – SDO after remand of the matter personally visited Village Khidrapur and collected oral as well as documentary evidence. He has also recorded the statements of some villagers and prepared Panchanama. Two witnesses viz. Appasaheb Kore and Kuldeep Kadam stated that they know Applicant and she resides at Village Khidrapur. Whereas, third witness viz. Sudarshan Badsukhe, Gram Panchayat Member of Village Khidrapur stated that the Applicant also run clinic at Village Jugul and she commutes between Khidrapur to Jugul. Fourth witness viz. Pirgonda Patil also stated that the Applicant is medical practitioner and had clinic at Jugul and she commutes in between Jugul and Khidrapur. The SDO has also taken note of these statements and found that though there are documents on record to

show the residence of Applicant of Village Khidrapur, she is not eligible to perform the duties of Police Patil in the light of documents showing her residence at Village Jugul also. The SDO has noted that the Applicant had Ration Card of Village Jugul but she got it cancelled on 15.10.2016. It is material to note that the Notification was issued on 24.11.2015. As such, there is no denying that the Applicant was having Ration Card at Village Jugul which goes to show that she was also residing at Jugul, but later after Notification, she got Ration Card cancelled w.e.f. 15.10.2016. The SDO observed that the Applicant has suppressed this aspect while making an application for the post of Police Patil. Besides, the SDO has also noted that the Applicant's son has purchased Scooter on 16th September, 2016 where he gave his address of Village Jugul, Tal. Athani, District Belgaum. Furthermore, the Applicant had Indian Gas Company connection on the address of Jugul, Tal. Athani and she also availed subsidy in 2016.

9. The SDO had further noted that though one set of documents produced by the Applicant shows her residence at Village Khidrapur, at the same time, there are another set of documents showing her residence at Village Jugul, Tal. Athani, District Belgaum. He, therefore, opined that the person who is residing at two places cannot perform the duties attached to the post of Police Patil effectively and efficiently. He has further observed that as per one of the main condition for the appointment of Police Patil is that the candidate must be permanent resident of concerned Village. With this finding, he confirmed his earlier decision dated 03.03.3017 and held the Applicant not eligible for appointment to the post of Police Patil.

10. This finding recorded by the SDO cannot be termed perverse or illegal. It is subjective satisfaction recorded by SDP considering the fact that the Applicant's residence is at both the places and she is not permanent resident of Village Khidrapur, and therefore, cannot discharge duties attached to the post of Police Patil effectively. This reasoning is the outcome of assessment of the situation and the requirement for the post of Police Patil.

13. It is thus explicit that the Police Patil must be resident of concerned Village and must be available to people, so that he can discharge his duties entrusted to him as per Section 6 of Maharashtra Police Act. If a person is not permanent resident of concerned Village and stays at two Villages, he cannot be said competent to discharge his duties effectively and to assist Police and administration in exigencies whenever required, as mandated by Section 6 of Maharashtra Village Police Patil Act.”

9. Shri Bandiwadekar, learned Advocate for the Applicant heavily relied on the observation made by this Tribunal in O.A.No.715/2017 that where a person is not permanent resident of a concerned Village and stays at two Villages, he cannot be said competent to discharge the duties effectively. Adverting to these findings, the learned Advocate for

the Applicant sought to contend that in the present case also, there is issue of dual residence and the said issue being already decided in O.A.No.715/2017, this O.A. deserves to be allowed.

10. Now, let us see whether really this is a case of dual residence of Dipali Patil, who is appointed as Police Patil of Village Khidrapur and had already completed her complete term of 5 years. After completion of 5 years' term, she is again continued on the post of Police Patil till 07.03.2031 by SDO in terms of order dated 11.05.2021 (Page No.135 of P.B.) in view of recommendations made by Tahasildar, Shirol and Police Inspector, Purandwad Police Station. Thus, her appointment seems to have been continued on ad-hoc basis. Indeed, as per Clause No.4 of Maharashtra Village Police Patil (Recruitment, Pay and Allowances and other Conditions of Service) Order, 1968, in first instance, the appointment shall be for the period of 5 years' and if work is found satisfactory, such appointment can be renewed for further terms of 5 years at a time, provided that it should not be continued after the age of 60 years.

11. Now, let us see the documents submitted by the Applicant while submitting application for the post of Police Patil. These documents are at Page Nos.147 to 154 of Paper Book. In application, the Application had shown her residence of Village Khidrapur, Tal. Shirol, District Kolhapur and in support of it, she had submitted the Certificate issued by Gram Panchayat, Khidrapur dated 26.11.2015 (Page No.148 of P.B.), Certificate issued by Tahasildar Shirol dated 30.11.2015 (Page No.149 of P.B.) stating that Applicant is the resident of Village Khidrapur, Residence Certificate dated 26.11.2015 (Page No.150 of P.B.) issued by Talathi stating that since marriage, the Applicant is resident of Village Khidrapur, Certificate issued by Superintendent of Police, Khidrapur dated 01.12.2015 (Page No.151 of P.B.), Ration Card (Page No.153 of P.B.) and Voter-list of Shirol Legislative Assembly Constituency for the year 2016 wherein the Applicant is shown resident of Village Khidrapur. On the basis of these documents, the Respondent No.1 – SDO accepted

the candidature of Respondent No.2 – Dipali Patil and appointed her as Police Patil.

12. On the other hand, the Applicant had produced on record Voter-list of Bhosari Legislative Assembly Constituency (Page No.49 of P.B.) wherein the Applicant shown resident of Haveli, District Pune. In addition to it, the Applicant sought to contend that Respondent o.2 was also employed as a Teacher at City Pride School, Nigadi, Pune.

13. True, as per Voter-list of Bhosari Legislative Assembly Constituency for the year 2016, the Applicant was shown resident of Haveli, District Pune. However, at the same time, material to note that, her name was also simultaneously appearing in Voter-list of Shirol Legislative Assembly Constituency for the year 2016 (Page No.139 of P.B.). In so far as the name of Applicant in Bhosari Legislative Assembly Constituency is concerned, as pointed out by learned Advocate for the Applicant she got her name deleted from the said Constituency in September, 2016. In this behalf, the Applicant has produced information sought under R.T.I. which is at Page No.72 of P.B. whereby it was informed that the name of Applicant was deleted from the said Constituency in view of her application. In this behalf, the Respondent No.2 had tendered the copy of application submitted to the concerned authority for deletion of her name from Bhosari Legislative Assembly Constituency, which is at Page No.141-B along with acknowledgement. In the said application, she stated that she is the permanent resident of Village Khidrapur, Tal. Shirol, District Kolhapur, but her name was wrongly taken in Voter-list of Bhosari Legislative Assembly Constituency and requested to delete her name from the said Constituency. She applied for deletion of her name on 08.12.2015. Accordingly, her name came to be deleted. Here, material to note that the Notification to fill-in the post of Police Patil of Khidrapur was issued on 02.01.2016 though there is reference of one earlier Notification dated 24.11.2015 in the Notification itself. Thus, the fact remains that the name of the Applicant though earlier shown in Voter-list of Bhosari Legislative Assembly

Constituency, she got her name deleted. At the same time, her name was already appearing in Voter-list of Shirol Legislative Assembly Constituency of 2016, as seen from Page No.139 of P.B. True, the Applicant has not produced earlier Voter-list of Shirol Legislative Assembly Constituency. However, there is other voluminous documentary evidence of her residence of Village Khidrapur in the form of various Certificates issued by Tahasildar, Talathi, Gram Panchayat and Superintendent of Police as discussed above.

14. In addition, the Respondent No.2 also tendered the copy of Aadhar Card showing her address at Khidrapur (Page No.137 of P.B.) and importantly, Identity Card issued by Election Commission of India showing her resident at Khidrapur, which was issued in 2010 (Page No.138 of P.B.). As such, even before issuance of Notification for the post of Police Patil in 2016, the name of the Applicant was already recorded in Identity Card issued by Election Commission of India in 2010 showing her resident of Village Khidrapur. Suffice to say, there is voluminous documentary evidence establishing that Respondent No.2 is resident of Village Khidrapur.

15. In so far as teachership of the Applicant in City Pride School, Nigade is concerned, the Certificate issued by the said School dated 23.08.2017 (Page No.103 of P.B.) reveals that the Applicant was Assistant Teacher in between 01.06.2014 to 01.06.2015 only. Except this Certificate, there is nothing to indicate that at the time of submitting application for the post of Police Patil or thereafter, the Applicant was working as Teacher in the School.

16. Indeed, the Respondent No.1 – SDO while dealing with an objection raised by the Applicant gave full opportunity of hearing to the parties and with reasoned order, having satisfied that the Applicant is resident of Khidrapur rejected the complaint. Some additional grounds raised by the Applicant before SDO that the husband of Respondent No.2 got registration of Car vide Registration No.MH-12-DE-3613 with

Registration Office, Pimpri-Chinchwad and has some business at Pimpri-Chinchwad is already dealt with by Respondent No.1 – SDO stating that the said aspects does not establish that Applicant was residing at place other than Khidrapur. He rightly observed that husband of Respondent No.2 was at liberty to do business whenever he thinks and that itself cannot be the ground to presume that Applicant is residing with her husband at somewhere else.

17. Suffice to say, this is not a case of dual residence as sought to be canvassed by the learned Advocate for the Applicant. On the contrary, there is cogent and satisfactory documentary evidence about the residence of Respondent No.2 at Village Khidrapur. Apart, in 5 years' period, the Respondent No.1 – SDO has not received any complaint against Respondent No.2 alleging that she is not residing at Khidrapur and not discharging her duties to the satisfaction of villagers. Indeed, the Respondent No.1 – SDO has appreciated her performance as Police Patil, as seen from impugned order.

18. The totality of aforesaid discussion leads me to conclude that the challenge to the order passed by SDO dated 26.08.2020 rejecting the objection of the Applicant holds no water and O.A. being devoid of merit deserves to be dismissed. Hence, the order.

ORDER

The Original Application stands dismissed with no order as to costs.

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

Mumbai
Date : 13.07.2021
Dictation taken by :
S.K. Wamanse.

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