

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**DISTRICT : SANGALI**

**ORIGINAL APPLICATION NO.699 OF 2018**

Shri Prashant Sharnappa Sonkananli, )  
Aged 28 yrs, Occu.: Police Patil, )  
R/at : Morabagi, Tal. Jath, Dist. Sangli. ) ....Applicant

**Versus**

1. The State of Maharashtra, )  
Through the Secretary, Home Dept. )  
Mantralaya, Mumbai 400 032. )
2. The Collector and District Magistrate, )  
Sangali Dist. Sangali. )
3. The Sub-Divisional Officer, Jath Sub- )  
Division, Jath, Dist. Sangali. )
4. Tahsildar, Jath, Tal. Jath, Dis.Sangali. )
5. Shri Bhimashankar L. Koli, )  
R/at. Morabagi, Tal.Jath, Dist. Sangali. ) .....Respondents.

Shri S.K.Hande , Counsel for the Applicant.

Shri S. D. Dole, Presenting Officer for the Respondents

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

**DATE : 28.08.2019.**

**J U D G M E N T**

1. In the present O.A., the challenge is to the impugned order dated 29.06.2018 passed by the Respondent No.3 i.e. S.D.O. Jath, Dist. Sangali, cancelling the selection / eligibility of the Applicant to the post of Police Patil of village Morabagi, Tal. Jath, Dist. Sangali.

2. The Respondent No.3 had issued advertisement dated 20.11.2017 inviting applications for the post of Police Patil of village Morabagi and applications were to be submitted on or before 30.11.2017. Accordingly, the

Applicant participated in the process and secured highest marks. However, the Respondent No.5 lodged complaint with S.D.O. stating that the Applicant is serving as Conductor in Brihanmumbai Electric Supply & Support, Mumbai (hereinafter referred to as 'BEST') and, therefore, not eligible for appointment to the post of Police Patil. Accordingly, the Respondent No.3 called explanation of Applicant and after hearing him passed the impugned order thereby cancelling the selection/eligibility of the Applicant to the post of Police Patil on the ground that the Applicant has contravened the condition No.17 of the advertisement which is as follows:-

“ १७. अर्जदार हा जाहिरनाम्याच्या दिनांकास शासकीय नोकर, निमशासकीय/सहकारी संस्थेचा संचालक/सदस्य, अथवा पदाधिकारी नसावा, नियुक्तीबाबत कोणत्याही राजकिय पक्षाचा अथवा संघटनेचा दबाव आणलेस अर्ज रद्द करणेत येईल.”

3. Shri S.K. Hande, learned Counsel for the Applicant sought to contend that the Applicant cannot be said State Government servant and he does not fall within the clause 17 of the advertisement. According to him, 'BEST' at the most being local authority, the Applicant cannot be held ineligible for appointment to the post of Police Patil.

4. Per contra, Shri S.D.Dole, learned Presenting Officer for the Respondents submits that as per Article 12 of the Constitution, State includes local authority, therefore, the order passed by the S.D.O. is legal and valid.

5. As per Clause 17 of the advertisement, candidate should not be in service of Government, Semi-Government Organisation, Director or Member of Co-operative Society and should not be affiliated to any political organisation. Whereas, in the present case, admittedly, the Applicant was Conductor in 'BEST', Mumbai which is undertaking of Brihanmumbai Municipal Cooperation. It is also not in dispute that the Applicant had submitted resignation on 15.12.2017 and the same was accepted by BEST on 06.02.2018. Thus, the fact remains that on the date of submission of application for the

post of Police Patil i.e. on 30.11.2017, the Applicant was in service of 'BEST' on the post of Conductor. Admittedly, he did not obtain permission of 'BEST' while submitting application for the post of Police Patil.

6. Indeed, the Applicant being in service as Conductor at Mumbai and residing at Mumbai, he was not eligible to apply for the post of Police Patil as one of the conditions for the appointment is that candidate should be resident of the said village. As per Condition Nos.3 & 4 of the advertisement, person should be resident of the said village and he also required to submit the residence proof along with an application for the post of Police Patil. Indeed, on this ground itself, the Applicant was not eligible to apply for the post of Police Patil.

7. Now, turning to Clause 17 as pointed out by the learned P.O. as per Article 12 of the Constitution, State includes local authority. Article 12 is as follows:-

*"12 Definition : In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India."*

8. Respondent No.3 in the impugned order held the Applicant ineligible with the finding that 'BEST' being local authority falls in the definition of State as per Article 12 of the Constitution.

9. Indeed, the local authority is included in the definition of State as per Article 14 of the Constitution for the purpose of Part 3 of the Constitution, and therefore, technically the Applicant cannot be said in service of State. However, by implication, he being in service of local authority the object of appointment of Police Patil and condition precedent is that he should be resident of the same village. The Applicant cannot be said eligible for the

appointment to the post of Police Patil, it being in breach of condition Nos.3,4 and 17 of the advertisement.

10. For the aforesaid reasons, I see no illegality in the impugned order, the Respondent No.3 has rightly held that the Applicant is not eligible for appointment to the post of Police Patil.

11. The totality of aforesaid discussion leads me to sum up that challenge to the impugned order is devoid of merit and O.A. deserves to be dismissed. Hence the following order.

**ORDER**

Original Application is accordingly dismissed with no order as to costs.

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