

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.715 OF 2017

DISTRICT : KOLHAPUR

Shri Rajashri Rajgonda Patil.)
Age : Major, Occu.: Medical Practitioner,)
R/o. Khidrapur, Tal.: Shirol,)
District : Kolhapur.)...**Applicant**

Versus

1. The State of Maharashtra,)
Through Principal Secretary,)
Home Department, Mantralaya,)
Mumbai.)
2. Collector, Kolhapur, O/at. Swaraj)
Bhawan, Nagala Park, Kolhapur.)
3. Sub-Divisional Officer,)
Ichalkaranji Sub Division,)
Dist. Kolhapur.)
4. Tahasildar, Shirol, Tal. Shirol,)
Dist. Kolhapur.)
5. Dipali Balaso Patil.)
Age : Majour, Occ. Household,)
R/o Khidrapur, Tal. Shirol,)
District : Kolhapur.)...**Respondents**

Mr. D.V. Sutar, Advocate for Applicant.

Mr. A.J. Chougule, Presenting Officer for Respondents 1 to 4.

None for Respondent No.5 though served.

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

DATE : **15.10.2019**

JUDGMENT

1. This is the second round of litigation wherein the Applicant has challenged the order dated 05.06.2017 passed by Respondent No.3 – Sub Divisional Officer thereby confirming his earlier order dated 08.03.2016 whereby he cancelled selection of the Applicant to the post of Police Patil of Village Khidrapur, Tal.: Ichalkaranji, District Kolhapur invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. Shortly stated facts giving rise to this application are as follows:-

The Respondent No.3 – Sub Divisional Officer (SDO), Tal. Ichalkaranji, District Kolhapur had issued Notification on 24.11.2015 to fill-in the post of Police Patil of Village Khidrapur. One of the foremost condition for the appointment to the post of Police Patil is that the candidate must be the resident of the concerned Village. The Applicant as well as Respondent No.5 participated in the process. The Applicant secured highest marks in the examination and was selected for the post of Police Patil. However, the Respondent No.5 filed objection for her appointment on the ground that she is the resident of Village Jagul, Tal.: Athani, District Belgaum, State of Karnataka. The Respondent No.3 – SDO passed the order dated 08.03.2016 without issuing show cause notice to the Applicant thereby cancelling her appointment on the ground that she is not resident of Village Khidrapur. The Applicant has challenged the said order in O.A.216/2016. The Tribunal by Judgment dated 03.03.2017 remitted the matter to SDO having found that the impugned order was passed without giving opportunity of hearing to the Applicant. The Tribunal

had also directed SDO to collect relevant material, documentary as well as oral to determine the fact of residence and then pass the appropriate order.

3. Accordingly, the SDO conducted enquiry afresh, heard the parties and passed order on 05.06.2017 thereby confirming his earlier order dated 03.03.2017 with the finding that the Applicant is not the permanent resident of Village Khidrapur, and therefore, not eligible for the appointment to the post of Police Patil. The Applicant has again challenged the order dated 05.06.2017 in the present O.A.

4. Shri D.V. Sutar, learned Advocate for the Applicant sought to assail the order dated 05.06.2017 contending that the SDO has not considered oral evidence of the witnesses examined during the enquiry and he misdirected himself by giving much weight to the old Ration Card of the Applicant showing her residence at Jugul, Tal. Athani, District Belgaum. He submits that the Applicant as well as her husband are BAMS and their permanent residence is at Village Khidrapur but running dispensary at Village Jugul, which is on the other side of the river Krishna at a distance of hardly 7 kms. from Village Khidrapur. According to him, the Applicant only helps her husband in medical practice at Village Jugul, but her residence is at Village Khidrapur. He also pointed out that the documentary evidence also establishes that the Applicant is resident of Village Khidrapur. He, therefore, submits that the impugned order is unsustainable in law.

5. Per contra, the learned Presenting Officer supported the impugned order and pointed out that, even if there are documents of showing residence of Applicant at Village Khidrapur, another set of documents reveals that she is resident of Village Jugul. He has further pointed out that in view of residence of Applicant at both the places, the SDO recorded finding that the Applicant cannot be said

permanent resident of Village Khidrapur, and therefore, held her not suitable for appointment to the post of Police Patil of Village Khidrapur. He thus submits that the fact finding report and conclusion of SDO does not call for interference by the Tribunal.

6. This is not the case where the selection of the Applicant to the post of Police Patil is rejected on the ground of non-resident of Village Khidrapur but her selection has been cancelled on the ground that she resides at both the places i.e. at Khidrapur and Village Jugul, and therefore, she cannot be said permanent resident of Village Khidrapur so as to discharge the duties attached to the post of Police Patil effectively and efficiently.

7. True, as pointed out by the learned Advocate for the Applicant that the Voter ID, Certificate issued by Talathi dated 20.03.2017, Certificate issued by Gram Sevak, Khidrapur dated 14.03.2017, Certificate issued by Sarpanch, Gram Pranchayat, Khidrapur dated 14.03.2017, Identity Card issued by Cooperative Sugars Factory, Voter List of Village Khidrapur, School Leaving Certificate dated 13.12.2012, Certificate of Age, Nationality and Domicile issued by Executive Magistrate on 29.03.2017, LPG Connection letter shows the residence of the Applicant of Khidrapur. Material to note that the SDO had issued Notification on 24.11.2015 and most of the documents are subsequent to the date of Notification.

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 runs 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 03.03.2017 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.

11. Here, it would be apposite to see Condition No.4 of the Notification, which is as follows :-

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

12. 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.”

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.

14. The totality of aforesaid discussion leads me to sum-up that the impugned order passed by SDO cannot be faulted with and challenge to the impugned order is devoid of merit. The O.A, therefore, deserves to be dismissed. Hence, the following order.

ORDER

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

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

Mumbai
Date : 15.10.2019
Dictation taken by :
S.K. Wamanse.