

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.724/2012.

Mukunda Laxman Sultane,
Aged about 35 years,
Occ-Agriculturist.
R/o Pahupurna, Po. Manasgaon,
Teh. Shegaon, Dist. Buldana.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Home Affairs,
Mantralaya, Mumbai-32.
2. The Sub-Divisional Magistrate,
Khamgaon, Distt. Buldana.
3. Sanjay Suresh Barde,
Aged-35 years,
Occ- Agriculturist,
R/o Pahupurna, Po. Manasgaon,
Teh. Shegaon, Dist. Buldana.
4. Bharat Gopal Sultane,
Aged-33 years,
Occ- Agriculturist,
R/o Pahupurna, Po. Manasgaon,
Teh. Shegaon, Dist. Buldana.

Respondents.

Shri K.B. Zinjarde, Advocate for the applicants.
Shri A.M. Ghogre, P.O. for the respondent Nos. 1 & 2.
None for respondent Nos. 3 and 4.

Coram:- The Hon'ble Shri Justice A.P.Deshpande
Vice-Chairman.

Dated:- 1st February, 2013.

Oral Order

Heard Shri K.B. Zinjarde, the learned Counsel for the applicant, Shri A.M. Ghogre, the learned P.O. for the respondent Nos. 1 and 2. None appears for the respondent Nos.3 and 4.

2. In response to the Proclamation/Advertisement issued by Sub-Divisional Magistrate, Khamgaon with a view to fill in the post of Police Patil of village Puhurpurna, the applicant alongwith other candidates had applied for the same. The process of selection comprised of written examination so also oral interview. 80 marks were assigned for written examination whereas 20 marks for oral interview. Oral interviews were conducted by a Committee headed by the Sub-Divisional Magistrate, Khamgaon wherein other Members were Sub-Divisional Police Officer, Khamgaon, Social Welfare Officer, Buldana, Tribal Project Officer, Akola and the Tehsildar of the concerned Tehsil. In the process of selection, the respondent No.3 came to be

selected for manning the said post of Police Patil. It is this selection process that is challenged by filing the present O.A.

3. The applicant secured 36 marks in the written examination as against 34.5 marks secured by the respondent No.3, whereas in the oral interview, the applicant secured 13 marks out of 20 as against 16 marks secured by the selected candidate/Respondent No.3. The thrust of challenge in the O.A. is to the conduct of oral interview. According to the applicant, he had fared extremely well and as such ought to have been awarded more marks. In the above factual matrix, the grievance of the applicant is that the Interview Committee has not maintained the record of the questions put to each of the candidates and the reply given by the candidates, so as to facilitate judicial review of the oral interview process. There cannot be any dispute that allocation of 80 marks for written examination and 20 marks for oral interview is very much within permissible limits and hence legal. There is

bound to be an element of subjectivity in the process of oral interview. The subjectivity is curtailed by appointing a panel of five persons who judged the merit ^{of} ~~to select~~ the candidate. In written examination, what is tested is academic performance of the candidate whereas in oral interview, various other facets need to be judged to find out the suitability of a candidate for appointment. It does happen that some candidates perform better in the written examination, whereas some other may perform better in the oral examination. In my considered view, it would be too farfetched to expect the Interview Committee to maintain the record of questions posed to each of the candidates and their response to the said questions. It is ~~not~~ only the question and answer that assist the Members of the Interview Committee to judge the suitability of a candidate. Other relevant factors also weigh with the Interview Committee. I do not think that the performance of the candidates in an oral interview can be subject matter of judicial review and for that purpose compelling maintenance of the record of the oral interview, as expected by the

present applicant. Courts/Tribunals cannot sit in appeal over the decision of the Selection Committee. In the result, as I do not find any merit in the O.A., the same stands rejected, however, with no order as to costs.

sd/-

(Justice A.P.Deshpande)
Vice-Chairman

Pdg