

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.767 OF 2020**

**DISTRICT : SATARA**

Shri Ajitkumar D. Deokar. )  
Age : 45 Yrs., Police Patil, Village Mohi, )  
Tal. : Man, District : Satara and residing at )  
At and Post : Mohi, Tal. : Man, )  
District : Sangli. )...**Applicant**

**Versus**

1. The State of Maharashtra. )  
Through Addl. Chief Secretary, )  
Home Department, Mantralaya, )  
Mumbai – 400 032. )
2. Sub-Divisional Officer and )  
Sub-Divisional Magistrate, )  
Man-Khatav Sub-Division, )  
Dahiwadi, District : Satara. )
3. Shri Sunil Dadasaheb Pawar. )  
Residing at At & Post : Mohi, )  
Tal.: Man, District : Satara. )...**Respondents**

**Mr. M.D. Lonkar, Advocate for Applicant.**

**Mr. A.J. Chougule, Presenting Officer for Respondents 1 & 2.**

**Mr. K.R. Jagdale, Advocate for Respondent No.3.**

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

**DATE : 24.06.2021**

## **JUDGMENT**

1. The Applicant has challenged the order dated 20.11.2020 passed by Respondent No.2 – Sub Divisional Officer whereby his appointment on the post of Police Patil of Village Mohi, Tal.: Man, District : Satara was cancelled on the ground that he was not entitled to get two marks given to him for computer knowledge, invoking Section 19 of Administrative Tribunals Act, 1985.

2. Shortly stated facts giving rise to this O.A are as under :-

The Respondent No.2 – S.D.O, Dahivadi, District Satara had published an Advertisement on 18.11.2017 inviting applications to fill-in the post of Police Patil. Accordingly, the Applicant, Respondent NO.3 amongst others applied for the post of Police Patil of Village Mohi, Tal.: Man, District : Satara. The written examination as well as interview were taken. The Applicant got 54 marks in written examination, 14.75 marks in oral, totaling to 68.75 marks. Whereas, Respondent No.3 got 52 marks in written examination, 16.75 marks in oral, totaling to 68.75. However, it seems that considering the date of birth and age, the Applicant being found more aged than Respondent No.3, he was appointed on the post of Police Patil by order dated 17.01.2019.

3. Admittedly, at the time of interview, the candidates were directed to produce computer knowledge certificate from recognized Institute. Accordingly, the Applicant as well as Respondent No.3 furnished the certificate and on the basis of it, two marks each were given to them for this additional qualification.

4. However, after appointment of the Applicant, the Respondent No.3 lodged complaint with SDO as well as Government stating that computer knowledge certificate issued by Aadarsh Computer Education (Page No.11 of P.B.) was not from recognized Institute, and therefore, the Applicant was not entitled to get two marks. On receipt of said

complaint, the Government directed Respondent No.3 by letter dated 13<sup>th</sup> February, 2020 stating that SDO is discharging administrative as well as quasi-judicial functions in terms of G.R. dated 7<sup>th</sup> September, 1999, and therefore, he can correct his order, if found issued in suppression of material fact or incorrect. On receipt of said direction, the Respondent No.3 – SDO issued notices to the Applicant as well as Respondent No.3 and after conducting enquiry found that computer knowledge certificate obtained from Aadarsh Computer Education dated 01.01.1999 was not from Government recognized Institute. Consequently, it was found that he was not entitled to get two marks given to him. He, therefore, cancelled the appointment of the Applicant by order dated 20.11.2020, which is under challenge in the present O.A.

5. Shri M.D. Lonkar, learned Advocate for the Applicant sought to assail the impugned order on following grounds :-

(i) As per Advertisement/Notification dated 18.11.2017, there was no requirement to have computer knowledge as eligibility criteria, and therefore, the action on the part of SDO to give two marks, and thereafter to reduce it, is bad in law.

(ii) In terms of Maharashtra Civil Services (Requirement of Knowledge of Computer Operation) Rules, 1999 (hereinafter referred to as 'Rules of 1999' for brevity), it is applicable for recruitment of Group 'A', 'B' and 'C' posts in Government Department and it does not apply to the post of Police Patil.

6. Per contra, Shri A.J. Chougule, learned Presenting Officer and Shri K.R. Jagdale, learned Advocate for Respondent No.3 supported the impugned order and pointed out that in terms of Government Circular dated 7<sup>th</sup> September, 1999 issued by GAD, the SDO is empowered to discharge administrative as well as quasi-judicial functions and in the matter of appointment of Police Patil, he is competent to cancel the appointment, if the same is found wrongly given on suppression of

material fact. As regard applicability of computer knowledge, they have pointed out that in terms of Circular issued by Home Department dated 6<sup>th</sup> November, 2020, the SDO was to examine validity of the documents including computer knowledge certificate to confirm whether it is found authorized or Government recognized Institution. On this line of submission, they submit that after issuance of appointment order, enquiry was conducted and computer knowledge certificate produced by the Applicant was found not from Government recognized Institution, and therefore, SDO has rightly deducted two marks which was given to the Applicant at the time of oral interview.

7. Shri K.R. Jagdale, learned Advocate for Respondent No.3, therefore, submits that since his client was next in merit to the Applicant, he is entitled for appointment in view of cancellation of appointment of the Applicant and direction be given to SDO accordingly.

8. In view of submission advanced at the Bar, the small issue posed for consideration is whether the impugned action of cancellation of appointment of the Applicant to the post of Police Patil is sustainable in law.

9. Indisputably, in Advertisement issued for the post of Police Patil, there was no such eligibility criteria to have computer knowledge. It is also equally true that 'Rules of 1999' apply to the recruitment for Group 'A', 'B' and 'C' in Government Department. Whereas, post of Police Patil is honorary post. However, at the same time, admittedly, at the time of interview, the criteria was fixed to give two marks for computer knowledge. Indeed, by Circular dated 06.11.2020, directions were issued to verify the certificates produced by the candidates including computer knowledge certificate to find out as to whether it is from Government recognized Institution. Suffice to say, even if there was no such requirement of computer knowledge in Advertisement in oral interview as per criteria fixed by SDO, two marks were to be given for computer.

Accordingly, two marks each were given to the Applicant as well as Respondent No.3.

10. Thus, even if, there was no requirement of computer knowledge for the post of Police Patil in terms of Advertisement by way of additional qualification, it was considered necessary and two marks were to be allotted to the candidates possessing computer knowledge certificate issued by Government recognized Institution.

11. The Applicant had produced computer knowledge certificate obtained from Aadarsh Computer Education dated 01.01.1999 wherein it is stated that the Applicant had completed the course CCCP from June to December. The Certificate was issued by Sau. Rajani T. Gade, Director of Computer Education Society. It bears date 01.01.1999.

12. Shri M.D. Lonkar, learned Advocate for the Applicant was fair enough to admit that when the Applicant obtained certificate, that time said Institution was not recognized. However, he sought to contend that later, said Institution was recognized by the Government and it is mere irregularity, which cannot be the ground to cancel the appointment to the Applicant. Indeed, in this behalf, there is letter of Sau. Rajani T. Gade (Page No.86 of P.B.) wherein she has stated that she obtained authorization from YCMOU after 2002. It is thus explicit that Aadarsh Computer Institute which issued certificate in favour of Applicant was not authorized Institution. This is again made clear in view of information obtained by Respondent No.3 under RTI from GAD, which is at Page No.91 of P.B. wherein it is clearly informed that certificate issued by Aadarsh Computer Education cannot be accepted as a legal and valid certificate for appointment.

13. Indisputably, the Respondent No.2 – SDO gave full pledged hearing to the Applicant as well as Respondent No.3 before passing impugned order. As such, this is not a case of breach of principles of natural justice. Admittedly, when Applicant obtained certificate, that time said

Institution was not Government recognized Institution. In Advertisement, it was specifically mentioned that where information given by the candidate found incorrect, his appointment was liable to be cancelled. As such, the Applicant was not entitled to get two marks since computer knowledge certificate was not from authorized or recognized Institution. This being the position, the SDO rightly deducted two marks given to the Applicant earlier and cancelled the appointment of Applicant by impugned order.

14. The submission advanced by the learned Advocate for the Applicant that once SDO had examined computer knowledge certificate, then he cannot review his order to cancel the same is totally unacceptable in view of G.R. dated 7<sup>th</sup> September, 1999 wherein it is stated as under :-

“महाराष्ट्र पोलीस अधिनियमाच्या कलम-३ अन्वये पोलीस पाटलांच्या नेमणुका करण्याचे अधिकार उपविभागीय दंडाधिकारी यांना प्रदान करण्यात आलेले आहेत व त्यांनी केलेल्या नेमणुकीविरुद्ध अन्य उमेदवारांनी दाखल केलेल्या अपीलांच्या अनुषंगाने शासनाने अथवा विभागीय आयुक्तांनी, उपविभागीय दंडाधिकारी-यांच्या नियुक्ती आदेशांची फेरतपासणी करण्याची तरतूद या अधिनियमात नाही. या अधिनियमांमध्ये नियुक्त्यांच्या विरुद्ध अपील करण्याची तरतूद नसली तरीही, उप विभागीय दंडाधिकारी-यांनी केलेली एखादी पोलीस पाटलाची नियुक्ती अन्यायकारक आहे. अशा आशयाची अपिले वारंवार प्राप्त होत असतात. म्हणून सदर अधिनियमामध्ये पोलीस पाटलांच्या नेमणुकीबाबतच्या आदेशांची फेरतपासणी आणि पुनर्विलोकनाची तरतूद करण्याच्या प्रस्तावावर विधी व न्याय विभागाने असा सल्ला दिला की नियुक्तीविरुद्ध अपील शक्तीची तरतूद करणे हे भारतीय घटनेचा अनुच्छेद ३११(२) शी विसंगत आहे व अशी असंवैधानिक तरतूद करता येणार नाही. तथापि, उप विभागीय दंडाधिकारी यांनी नियुक्त्यांच्या बाबतीत प्रशासकीय (Administrative) आणि न्यायीकवत (Quasi Judicial) अशी दुहेरी कर्तव्ये पार पडत असल्यामुळे, त्यांनी जर एखादी नियुक्ती विहित नियमांचे अथवा या संदर्भात शासनाने वेळोवेळी काढलेल्या आदेशांचे पालन न करता केली असेल, वा अन्य कोणत्याही अन्यायकारक रीतीने केली असेल तर तो चुकीचा वा अन्यायकारक नियुक्ती रद्द करण्यास ते स्वतः सक्षम आहेत. परंतु त्याच प्रमाणे अगोदर काढलेले चुकीचे वा अन्यायकारक आदेश रद्द करण्यापूर्वी उप विभागीय दंडाधिका-यांनी संबंधित उमेदवाराला त्याची नियुक्ती रद्द कां करू नये याची कारणे दाखवा नोटीस देणे व सदर नोटिशीला त्याने दिलेले उत्तर विचारात घेणे आवश्यक आहे.”

15. As such, the SDO being exercising administrative as well as quasi-judicial functions was empowered to examine the issue afresh where appointment is obtained on the basis of incorrect information. At the time of appointment, the Applicant himself produced the computer knowledge certificate though he was specifically informed that computer knowledge certificate must be from Government recognized Institution. However, he has produced the computer knowledge certificate from the Institute which had no recognition. As such, it was suppression of material fact, and therefore, Respondent No.2 – SDO rightly cancelled the appointment of the Applicant by impugned order.

16. As stated above, the Applicant as well as Respondent No.3 got equal marks i.e. 68.75. Since two marks given to the Applicant for computer knowledge certificate was deducted his total marks reduces to 66.75. Whereas, Respondent No.3 got 68.75 marks. This being the position, the cancellation of appointment of the Applicant cannot be faulted with.

17. Since Respondent No.2 – SDO has cancelled the appointment of the Applicant, he was required to take further steps for the appointment of next eligible candidate in accordance to law, but due to pendency of O.A, he seems to have not passed any such order, which he is now required to pass.

18. The totality of aforesaid discussion leads me to sum-up that the challenge to the impugned order of cancellation of appointment of the Applicant to the post of Police Patil holds no water and O.A. deserves to be dismissed. Hence, the following order.

### **ORDER**

- (A) The Original Application stands dismissed with no order as to costs.
- (B) The Respondent No.2 – SDO is directed to take necessary steps for the appointment of Police Patil of Village Mohi, Tal.: Man, District : Satara in accordance to Rules and law.
- (C) No order as to costs.

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

Mumbai  
Date : 24.06.2021  
Dictation taken by :  
S.K. Wamanse.

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