

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO. 222 OF 2016

DIST. : AURANGABAD.

Sandeep S/o. Kailas Patil
Age : 28 years, Off. Agril.,
R/o. Ghanegaon Tanda, Tq. Soyegaon,
Dist. Aurangabad.

.. APPLICANT.

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Home Department, M.S.,
Mantralaya, Mumbai-32.

(Copy to be served upon the Chief
Presenting Officer, MAT Mumbai,
Bench at Aurangabad).

2. The Sub-Divisional Officer,
Sillod, Tq. Sillod, Dist. Aurangabad.
3. Ishwar S/o. Jotmal Chavan
Age : 30 years, Occu. Agril.,
R/o. Ghanegaon Tanda,
Tq. Soyegaon,
Dist. Aurangabad.

.. RESPONDENTS.

APPEARANCE :- Shri S.R. Sapkal, learned Advocate
for the Applicant.

: Shri M.P. Gude, learned Presenting
Officer for the Respondent Nos. 1 &
2.

: None appears for respondent No. 3
though duly served.

**CORAM : HON'BLE SHRI J.D. KULKARNI,
MEMBER (J)**

J U D G E M E N T

[Delivered on this 20th day of December, 2016]

1. The applicant viz. Sandeep S/o. Kailas Patil, has applied for the post of Police Patil for village Ghanegaon Tanda, Tq. Soyegaon, Dist. Aurangabad, in response to the proclamation dated 01.02.2016 issued by respondent No. 2, Sub-Divisional Officer, Sillod, Tq. Sillod, Dist. Aurangabad. From the admitted facts, it is clear that the applicant appeared for written examination and secured 68 marks out of 100 marks and he has also appeared for the oral examination. In the oral examination he secured 9 marks out of 20 marks and comparing other candidates, he secured highest marks. On 11.3.2016 the respondent No. 3 objected for the selection of the applicant on the ground that the applicant is not resident of village Ghanegaon Tanda. The applicant has given his residential proof, such as, certificate of Gram Panchayat, Election Voter ID, etc. However, the applicant's claim for selection

was rejected and, therefore, the applicant has filed this Original Application. He has prayed a direction to respondent No. 2 i.e. Sub-Divisional Officer, Sillod, Tq. Sillod, Dist. Aurangabad, to select the applicant for the post of Police Patil Ghanegaon Tanda, Tq. Soyegaon, Dist. Aurangabad and that the selection of respondent No. 3 for the said post shall be quashed and set aside.

2. Respondent No. 3 viz. Ishwar S/o. Jotmal Chavan, who is selected for the post of Police Patil of village Ghanegaon Tanda has not contested the present Original Application in spite of notice served to him. As per order dated 21.3.2016 passed by this Tribunal respondent No. 3 was directed not to issue appointment order in favour of respondent No. 3.

3. Respondent No. 2 i.e. Sub-Divisional Officer, Sillod, Tq. Sillod, Dist. Aurangabad, has filed affidavit in reply. It is stated that the documents submitted by the applicant were scrutinized and verified and it was found that the applicant has his house at village Ghanegaon and not at village Ghanegaon Tanda. Similarly, the school leaving

certificate issued by Pincipal Shivaji Madhyamik Va Uccha Madhyamik Viddyalay also denotes that the applicant is from village Ghanegaon. The Tahsildar, Soyegaon, has also given certificate mentioning that the applicant belongs to village Ghanegaon. The applicant is, therefore, not resident of village Ghanegaon Tanda and, therefore, as per the pre-requisite for appointment, the candidate must be resident of the village for which he applied for the post of Village Police Patil.

4. Heard Shri S.R. Sapkal – learned Advocate for the applicant and Shri M.P. Gude – learned Presenting Officer for respondent Nos. 1 & 2. None appears for respondent No. 3 though duly served.

5. The only material point is to be considered as to whether the impugned communication dated 21.3.2016 (page-30 of paper book), vide which the selection of the applicant is rejected is legal and proper?

6. From the communication dated 21.3.2016 issued by Sub-Divisional Officer, Sillod, it seems that the selection of

the applicant to the post of Village Police Patil has been rejected on the following grounds: -

१. अर्जामध्ये आपण सर्व ठिकाणी घाणेगाव च्या पुढे तांडा हा शब्द नंतर लिहिलेला आहे. (घाणेगाव तांडा)
२. ग्रामसेवकाचे रहिवासी प्रमाणपत्रात देखील तांडा हा शब्द नंतर वेगळ्या शार्ईने लिहीला असल्याचे स्पष्ट होते. घाणेगाव (तांडा)
३. सिनियर कॉलेज, संत ज्ञानेश्वर महाविद्यालय, सोयगांव जि. औरंगाबाद टी.सी. क्रमांक १२४१, दिनांक ०८ जुलै, २००९ वर जन्म स्थळ गावाचे नांव “घाणेगाव” असे नमूद आहे.
४. शिवाजी माध्यमिक व उच्च माध्यमिक विद्यालय, सावळदबारा ता. सोयगांव जि. औरंगाबाद शाळा सोडल्याचे प्रमाणपत्र क्रमांक ७५, दिनांक ०५ जून २००६ वर देखील जन्मस्थळ “घाणेगाव” नमूद आहे.
५. तहसिलदार सोयगांव यांचे रहिवासी प्रमाणपत्र [जा.क्र. २००८/संकीर्ण/कावि/ ५२९](#), दिनांक १४.०३.२००८ वर उमेदवाराचा रहिवास हा “घाणेगाव” असल्याचे नमूद आहे. दि. (१४.०३.२००८) व गेल्या १५ वर्षांपासून तिथलेच रहिवासी असल्याचे नमूद आहे.”

7. From the perusal of the aforesaid letter, it seems that the Sub-Divisional Officer, Sillod Dist. Aurangabad, has considered the documents submitted by the applicant. It is not known as to how the Sub-Divisional Officer, has come to the conclusion that the word “Tanda” has been added subsequently in the documents pertaining to the resident of the applicant as stated at Sr. Nos. 1 & 2 above. It seems that the Sub-Divisional Officer, has not made any enquiry except scrutinizing the documents. There is no

reference to the Election Commissions Identity Card submitted by the applicant at Annexure "A-1", from which it seems that the applicant is resident of village Ghanegaon Tanda, Tq. Soyagaon. The said Identity Card is of the year 2007. Residential Certificate issued by the Grampanchayat, Ghanegaon, also shows that the applicant's residence is Ghanegaon Tanda. The property card in form No. 8 for the year 2011-12 also shows open land owned by the applicant at Ghanegaon Tanda and similarly the 7/12 extract of land gut No. 78 shows that he is owner of that land, which is situated at Ghanegaon Tanda. These documents are not considered by the learned Sub-Divisional Officer, Sillod. In my opinion learned Sub-Divisional Officer ought to have made detailed enquiry as to whether Ghanegaon & Ghanegaon Tanda are two different villages and if yes what is exact distance between these two villages. The Sub Divisional Officer ought to have recorded the statement of the villages to get it confirmed as to whether the applicant is really resident of village Ghanegaon Tanda and whether he is conversant with the public and public life in that village

and for that purpose detailed enquiry was required to be made by the respondent No. 2. It seems that such enquiry is not made by the Sub-Divisional Officer and, therefore, merely saying that some documents show that word "Tanda" has been included subsequently in the document is not sufficient to come to the conclusion that the applicant is not resident of village Ghanegaon Tanda.

8. In view of the discussion in foregoing paragraphs, I am satisfied that the Sub Divisional Officer, Sillod has not made proper enquiry and, therefore, the impugned communication dated 21.3.2016 on the basis of incomplete enquiry cannot be accepted to be true.

9. In view of the discussion in foregoing paragraphs, I pass the following order: -

ORDER

- (i) The present Original Application is partly allowed.
- (ii) The respondent No. 2, Sub-Divisional Officer, Sillod, Tq. Sillod, Dist. Aurangabad, is directed to

make detailed enquiry as stated in the aforesaid paras as regards residential proof of the applicant and see as to whether the applicant is well conversant with the public and ground situation of village, Ghanegaon Tanda, and thereafter shall pass necessary order as regards selection / non-selection of the applicant for the post of Village Police Patil of village Ghanegaon Tanda, Tq. Soyegaon, Dist. Aurangabad. Such enquiry shall be completed within a period of one month from the date of this order.

(iii) If in the enquiry it is found that the applicant is resident of village Ghanegaon Tanda and he is well conversant with the ground situation and with the public at Ghanegaon Tanda, he be appointed accordingly.

(iv) Respondent No. 2 is further directed that whatever decision taken in the enquiry shall be communicated to the applicant in writing by RPAD immediately after the enquiry is completed.

(v) In the facts and circumstances of the present case, there shall be no order as to costs.

MEMBER (J)