

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 457 OF 2016

DIST. : AURANGABAD

Gowardhan Shivaji Dighule,
Age. 26 years, Occu. : Agril.,
R/o Antarwali Khandi,
Tq. Paithan, Dist. Aurangabad
Pin Code 431 121.

-- APPLICANT

V E R S U S

1. The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai – 32.
2. The Sub Divisional Officer / Magistrate,
Paithan – Phulambri, Dist. Aurangabad.
3. Sunita Machindra Dighule,
Age. 26 years, Occu. Business &
Politics, R/o Antarwali Khandi,
Tq. Paithan, Dist. Aurangabad.
Pin Code 431 121.

-- RESPONDENTS

APPEARANCE : Shri Kiran D. Jadhav, learned Advocate for
the applicant.

: Shri S.K. Shirse, learned Presenting Officer
for the respondent nos. 1 & 2.

: Shri Kakasaheb B. Jadhav, learned
Advocate for respondent no. 3.

CORAM : **Hon'ble Shri B.P. Patil, Member (J)**

DATE : **11th April, 2017**

ORDER

1. The applicant has challenged the appointment of res. no. 3 on the post of village Police Patil of village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad made by the res. no. 2 by order dated 18.5.2016 and also prays for issuing direction to res. no. 2 to issue appointment order in favour of the applicant for the post of Police Patil of the village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad by quashing the order dated 18.5.2016.

2. The res. no. 2 issued advertisement / proclamation on 25.1.2016 to fill up the various posts of Police Patil in the Paithan – Fulambri Sub Division including the Paithan Taluka. In pursuance of the said advertisement, the applicant applied for the post of Police Patil of village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad along with the res. no. 3 and other candidates. The applicant, the res. no. 3 and other candidates appeared for the written examination. The applicant secured highest marks i.e. 58 marks in the written examination, whereas the res. no. 3 secured 55 marks therein. The applicant and other candidates, who cleared the written examination, were called for oral interview. The applicant has secured 5.5 marks in the oral interview, whereas the res. no. 3 secured 16 marks in the oral

interview. Thus, the applicant secured 63.5 marks in aggregate, whereas the res. no. 3 secured 71 marks in aggregate and therefore, the res. no. 3 was declared as selected candidate for the post of Police Patil of the said village.

3. It is the contention of the applicant that the res. no. 2 and other Members of Selection Committee intentionally and deliberately gave less marks to the applicant in the oral interview, though he has answered all questions correctly. They have given more marks to the res. no. 3 in the oral interview due to political pressure exercised by her. It is further contention of the applicant that the res. no. 3 is in active in village politics. The res. no. 3 has contested the Grampanchayat election in the year 2015 and her husband is a former Sarpanch of the village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad. By using political pressure the res. no. 3 secured more marks in the oral interview. The res. no. 3 is running the business viz. M/s Bhagwanbaba Readmade Cloth Store at Antarwali Khandi, Tq. Paithan, Dist. Aurangabad. The res. no. 3 is also running a business and active participation in Kohinoor Collection at Kohinoor Market, Agree College Road, Pachod, Tq. Paithan, Dist. Aurangabad.

4. The applicant raised objection regarding political affiliation of the res. no. 3 and the fact that she is running the business before the res. no. 2 by making several complaints, but the res. no. 2 has not considered the same. Thereafter as per the Directions of the Collector, Aurangabad the res. no. 2 called the applicant to appear personally and to produce documents in support of allegations made by him against the res. no. 3. The applicant has produced documents and affidavits of responsible persons of the village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad in that regard before the res. no.2. The res. no. 2 without taking into consideration the said documents rejected his objection and declared the res. no. 3 as a selected candidate for the post of Police Patil of the village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad and appointed the res. no. 3 as Police Patil of the village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad vide appointment order dated 18.5.2016. It is contention of the applicant that the res. no. 2 has not decided his objection judiciously and has decided the objection under political pressure exercised by the res. no. 3. Therefore, by filing the present original application the applicant has challenged the appointment of res. no. 3 and prayed to quash the same and also sought direction for issuing appointment order in his favour.

5. The res. nos. 2 and 3 have filed their separate affidavit in replies and contended that the selection process has been conducted by the res. no. 2 as per the guidelines and as per the rules of recruitment of Police Patil. The applicant secured 58 marks in the written examination whereas the res. no. 3 has secured 53 marks in the written examination. Both of them were called for oral interview wherein the applicant got 5.5 marks and the res. no. 3 secured 16 marks. Thus the res. no. 3 secured 71 marks in aggregate, whereas the applicant has secured 63.5 marks in aggregate. As the res. no. 3 secured highest marks, she was declared as selected candidate for the post of village Police Patil of the village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad. It is contention of respondents that the res. no. 2 followed the guidelines given in the Govt. Resolutions regarding the selection process for the post of Police Patil.

6. The res. no. 2 had also considered the objections of the applicant as well as documents produced by the applicant and as there was no substance in the said objection he had rejected the same and declared the res. no. 3 as selected candidate for the post of Police Patil and issued the order dated 18.5.2016 & thereby appointed the res. no. 3 as a Police Patil of the village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad. It is

the contention of the respondents that the res. no. 3 has filed affidavits stating therein that she is not a Member of Grampanchayat and she has no concern with the political party. She has also stated on oath that she is not running any business. The said affidavit was also taken into consideration by the res. no. 2. It is their contention that the post was not reserved for any category and it was open under general category. It is their contention the res. no. 2 followed the due procedure of law while conducting the selection process and selected the res. no. 3 for the post of Police Patil of village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad. Therefore they prayed to dismiss the original application.

7. I have heard Shri Kiran D. Jadhav, learned Advocate for the applicant, Shri S.K. Shirse, learned Presenting Officer for the respondent nos. 1 & 2 and Shri Kakasaheb B. Jadhav, learned Advocate for respondent no. 3 and also perused the various documents placed on record.

8. The learned Advocate for the applicant submitted that the applicant secured highest marks in the written examination. But the res. no. 3 secured more marks in the oral interview by using political influence & pressure. The respondent no. 3 was in active politics. She contested election of

Grampanchayat. Her husband was former Sarpanch of village Antarwali Khandi. The res. no. 3 is running the business viz. M/s Bhagwanbaba Readymade Cloth Store at Antarwali Khandi, Tq. Paithan, Dist. Aurangabad. The res. no. 3 is also running another business and active participation in Kohinoor Collection at Kohinoor Market, Agree College Road, Pachod, Tq. Paithan, Dist. Aurangabad. He has submitted that the res. no. 2 has not conducted the oral examination fairly and, therefore, it requires to be quashed. He has further submitted that the res. no. 3 contested the Grampanchayat election in the year 2015. She is affiliated to political party and her husband was former Sarpanch and by using political influence, the res. no. 3 secured more marks in the oral interview. He has submitted that the res. no. 3 is running a business viz. M/s Bhagwanbaba Readmade Cloth Store at Antarwali Khandi, Tq. Paithan, Dist. Aurangabad and she has active participation in Kohinoor Collection at Kohinoor Market, Agree College Road, Pachod, Tq. Paithan, Dist. Aurangabad. The applicant has submitted the documents in that regard before the res. no. 2, copies of which are placed on record at paper book page nos. 66 & 67 of the original application. Not only that, but the applicant has also produced affidavits of the responsible villagers in the said village in that regard before the res. no. 2, copies of which are at paper book pages 75 onwards of

the O.A., but the res. no. 2 had not considered those documents and rejected his objection on 18.5.2016 (paper book page 91 of the O.A.). He has submitted that no fair opportunity was given to the applicant and, therefore, entire recruitment process is not legal. Therefore, he prayed to quash the said selection process of the post of Police Patil of the village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad in which the res. no. 3 is selected as Police Patil of the said village.

9. The learned Advocate for the applicant has further submitted that the Police Patil is a public servant and, therefore, as per the Recruitment Rules the person appointed as a Police Patil should not be affiliated to any political party. But the res. no. 3 is affiliated to political party and she had contested election and, therefore, she is not eligible to be appointed on the post of Police Patil. In support of this submission the learned Advocate for the applicant has placed reliance on the judgment of Hon'ble Bombay High Court, Bench at Nagpur in the case of **SHRIRAM S/O DATTU BHOYAR VS. ASHOK S/O KASHINATH RAUT & ANR** reported in **[2012 (3) ALL MR 549]**, wherein the respondent Police Patil, who was discharging the duties, has contested the election and, therefore, he was removed from the post of Police Patil.

10. The learned P.O. for res. nos. 1 & 2 and the learned Advocate for res. no. 3 have submitted that the res. no. 2 has conducted the recruitment process as per the guidelines and recruitment rules framed for the post of Police Patil. The Member of the Selection Committee took oral interviews of the candidates and allotted proper marks to the candidates after assessing their performance. In the oral interview, the applicant secured 5.5 marks, whereas the res. no. 3 secured 16 marks and thus, the applicant secured 63.5 marks in aggregate, whereas the res. no. 3 secured 71 marks in aggregate. The res. no. 3, who secured highest marks in the selection process, was declared as selected candidate and accordingly the res. no. 2 issued appointment order in favour of the res. no. 3 for the post of Police Patil village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad. The res. no. 2 has submitted that the objection raised by the applicant regarding political affiliation of res. no. 3 and her business, the res. no. 2 has decided the said objection of the applicant after giving proper opportunity to the applicant & considering the documents produced by the applicant. The applicant failed to produce the substantial material and documents to show that the res. no. 3 is affiliated to any political party, she is a Grampanchayat Member and she is running business. On the contrary, the res. no. 3 has refuted the said allegations made against her in her affidavit and,

therefore, the res. no. 2 rejected the objection raised by the applicant by recording reasons on 18.5.2016. Therefore, they supported the impugned order of appointment of res. no. 3.

11. On going through the record, it appears that the res. no. 2 had conducted the selection process by following procedure laid down in the guidelines, advertisement and recruitment rules of the post of Police Patil. The applicant secured 63.5 marks in aggregate, whereas the res. no. 3 secured 71 marks in aggregate. Therefore, res. no. 2 declared the res. no. 3 as a selected candidate and appointed her on the post of the Police Patil village Antarwali Khandi, Tq. Paithan, Dist. Aurangabad. The applicant failed to substantiate his allegations made against the res. no. 3 regarding her affiliation to political party and her business. As there were no substantial documents on record to prove the contentions raised in the objection raised by the applicant against res. no. 3, the res. no. 2 rightly rejected the objection of the applicant by passing the order on 18.5.2016. The proper opportunity was given to the applicant to produce the documentary evidence in support of the allegations made by him against the res. no. 3. The respondent no. 2 has passed the impugned order after hearing the applicant & after considering the documents produced by him. The order under challenge is

perfectly legal and correct. Therefore, no interference is called for in the order under challenge. There is no merit in the original application. Consequently it deserves to be dismissed. Hence, I pass the following order :-

ORDER

The original application stands dismissed. There shall be no order as to costs.

MEMBER (J)

ARJ-O.A. NO. 457-2016 BPP (POLICE PATIL)