

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.431 OF 2018

DISTRICT : HINGOLI

Munjarao s/o. Trimbak Magar,
Age : 30 years, Occu. : Unemployed,
R/O. Daudgaon, Tq. Aundha Nagath,
Dist. Hingoli.

...APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through its Principal Secretary,
Home Department,
Mantralaya, Mumbai.
- 2) The Sub Divisional Magistrate,
Sub Divisional Office, Vasmat,
Chairman of Police Patil Appointment Committee,
Vasmat, Tq. Vasmat, Dist. Hingoli.
- 3) Adv. Munjabhau s/o. Vitthalrao Magar,
Age : 40 years, Occ: Legal Practitioner,
R/o. Shri Datt Niwas,
Hutatma Smarak Colony, Jintur,
Tq. Jintur, Dist. Parbhani.

...RESPONDENTS

APPEARANCE :Shri G.N.Patil, Advocate for the
Applicant.

:Shri S.K.Shirse, learned Presenting
Officer for Respondent No.1 and 2.

:Respondent no.3 is deleted from array of
the respondents.

CORAM : JUSTICE A. H. JOSHI, CHAIRMAN.

RESERVED ON : 26.06.2019.

REHEARD ON : 08.07.2019

PRONOUNCED ON : 08.07.2019.

ORDER

1. Heard Shri G.N.Patil learned Advocate for the applicant and Shri S.K.Shirse learned Presenting Officer for the respondents. Perused the record.
2. Matter pertains to appointment of Police Patil for Village Daudgaon, Tq. Aundha Nagnath, Dist. Hingoli.
3. At the end of written test and viva voce, marks secured by applicant and respondent no.3 were 63 & 66, respectively.
4. Respondent no.3 being higher in merit was appointed. In the present O.A., selection of respondent no.3 is challenged.
5. Prayers in present O.A. are as follows:

“(B) Hold and declare that, the impugned letter of appointment dated 16.02.2018 issued by the Respondent No.2 appointing respondent No.3 on the post of Police Patil at village Daudgaon, Tq. Aundha Nagnath, Dist.Hingoli is illegal and arbitrary and therefore, same is liable to be quashed and set aside and for that purpose issue necessary orders;

(C) Direct the Respondent Nos.2 to issue appointment order in favour of the applicant on the post of Police Patil at Daudgaon, Tq. Aundha Nagnath, Dist. Hingoli and for that purpose issue necessary orders;”
6. This O.A. was heard on 27-06-2019. On that day this Tribunal passed following order.

“Heard Shri G.N.Patil learned Advocate for the applicant and Shri S.K.Shirse learned Presenting Officer for the respondents

2. This O.A. was heard in the morning and reserved for order.

3. Though parties have argued that the order is cancelled, after scrutiny of papers, it has transpired that order of cancellation of appointment of the respondent no.3 is not on record.

4. Moreover, it is not clear as to whether the respondent no.3 has accepted the alleged cancellation of appointment.

5. Respondent no.2 Sub Divisional Magistrate, Vasmat is directed to place on record information on following points:

(a) Whether the respondent no.3 had joined as Police Patil ?

(b) As to whether and when the appointment of respondent no.3 was cancelled ?

(c) Whether the respondent no.3 has challenged the cancellation of his appointment or has acquiesced.

6. The aforesaid information be placed on record on 08-07-2019.

7. Steno copy and hamdust is allowed for the use of learned P.O.

8. *Learned P.O. is directed to communicate this order to the respondents.*

9. *S.O. to 08-07-2019.”*

7. Today, learned P.O. in reply to above queries states as follows:

“(a) Whether the respondent no.3 had joined as Police Patil ?

-- Respondent no.3 had joined.

(b) As to whether and when the appointment of respondent no.3 was cancelled ?

-- Services of respondent no.3 have been terminated by issuing order dated 15-06-2019.

(c) Whether the respondent no.3 has challenged the cancellation of his appointment or has acquiesced.

-- Respondent no.3 has acquiesced, he is relieved from the job and has not challenged the order.”

8. It is a common ground that prayer (B) is satisfied since the order of appointment dated 16-02-2018 issued in favour of the respondent no.3 is revoked/cancelled by the Respondent No.2 and respondent No.3 is not allowed/continued to serve as Police Patil of Village Daudgaon..

9. Applicant's objection to appointment of respondent no.3 was on various grounds, inter alia, lack of eligibility, his being practicing lawyer, his being not resident of Daudgaon.

10. Now, since the appointment of respondent no.3 has been cancelled/revoked being null and void as illegal, only candidate in the waitlist or next in merit is the applicant. Therefore, the applicant continues to pursue the present O.A. for the relief of appointment as per prayer clause (C).

11. Admittedly, the applicant is second in merit and the first candidate in the merit is ousted by pointing out that he is lacking eligibility. Hence, his appointment is revoked.

12. In the result, present O.A. succeeds. Respondent no.2 is directed to issue order of appointment in favour of the applicant within 10 days of the date of service/receipt of this order.

13. In the facts and circumstances of the case, parties are directed to bear their own costs.

(A.H.JOSHI)
CHAIRMAN

Place : Aurangabad
Date : 08.07.2019.