

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.926 OF 2018

DISTRICT : LATUR

Kishan s/o. Prabhurao Solunke @ Patil,
Age : 50 years, Occu. : Agriculture,
R/o. Yelnur, Tq. Nilanga,
Dist. Latur.

...APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through: Secretary,
Home Department,
Mantralaya, Mumbai-32.
- 2) The Collector,
Latur District, Latur.
- 3) The Superintendent of Police,
Latur District, Latur.
- 4) The Sub-Divisional Officer,
Nilanga, Tq. Nilanga,
District, Latur.
- 5) Police Inspector,
Police Station, Aurad Shahajani,
Tq. Nilanga, Dist. Latur. **...RESPONDENTS**

APPEARANCE : Shri S. B. Gastgar, Counsel for
Applicant.
: Smt. Sanjivani Ghate, Presenting
Officer for the respondent authorities.

CORAM : JUSTICE P.R.BORA, VICE CHAIRMAN.

DECIDED ON : 08.12.2022.

ORAL ORDER:

1. Heard Shri S.B.Gastgar, learned Advocate for the applicant and Smt. Sanjivani Ghate, learned Presenting Officer representing respondent authorities.

2. Aggrieved by the order dated 15-11-2018 passed by respondent no.4 whereby he has dismissed the applicant from the post of Police Patil, the applicant has preferred the present O.A. Applicant was first appointed as Police Patil in the year 1995 and his appointment on the said post was time to time renewed thereafter. One Dilip Ram Solunke, resident of Yelnur, Tq. Nilanga, Dist. Latur made a complaint against the applicant that he has obtained the appointment on the post of Police Patil by producing false and forged documents. On receiving such complaint, the enquiry was conducted in respect of his date of birth. In the said enquiry, it was revealed that in the school record, date of birth of the applicant was recorded as 05-03-1957 whereas in the documents produced by the applicant his date of birth was recorded as 05-03-1969. The Block Education Officer (BEO), Panchayat Samiti, Nilanga was directed to verify the original documents by visiting Lal Bahadur Shastri Vidyalaya, Hasori (Bk), Tq. Nilanga, Dist. Latur, in which the applicant has taken his education.

Accordingly, original record was inspected and verified by the BEO, Panchayat Samiti, Nilanga. The BEO then submitted his report to the Additional Collector at Latur with the concerned documents. Based on the report submitted by the said BEO, respondent no.3 dismissed the applicant from the post of Police Patil vide the impugned order.

3. Shri S.B.Gastgar, learned Counsel for applicant submitted that his correct date of birth is 05-03-1969 and the same is mentioned in the school register of the Lal Bahadur Shastri Vidyalaya, Hasori (Bk) as well as on the School Leaving Certificate. Learned Counsel submitted that same date is recorded in the PAN Card and Adhar Card of the applicant. Learned Counsel further submitted that Shri Dilip Solunke who made the complaint against the applicant is on rival terms with the applicant. The applicant had filed a criminal case against the family members of said Dilip Solunke and aggrieved by the complaint so filed, he has made false complaints against the applicant alleging that the applicant has submitted false and forged documents in respect of his birth date and has obtained appointment fraudulently on the post of Police Patil. Learned Counsel submitted that School

Leaving Certificate obtained by the applicant way back in the year 1993 is placed on record by him. Inviting my attention to the said document, learned Counsel submitted that in the said certificate his date of birth has been correctly recorded as 05-03-1969. Learned Counsel further submitted that the applicant was not given any opportunity to put forth his case and the documents relying on which the order of dismissal has been passed were not brought to his notice and no opportunity to confront the said documents was given to the applicant. Learned Counsel submitted that the termination order is bad in law since it has been passed without giving any opportunity of hearing to the applicant and it is in utter violation of the principles of natural justice. Learned Counsel in the circumstances prayed for quashment of the impugned order and for consequent direction to the respondents to reinstate the applicant on the post of Police Patil. In the alternative, learned Counsel prayed for remitting back the matter to respondent no.2 for conducting a fresh enquiry in the matter by giving due opportunity of hearing to the applicant.

4. Learned P.O. has opposed the submissions advanced on behalf of the applicant. Learned P.O. attracted my

attention to the documents filed by the respondents along with their affidavit in reply. Learned P.O. submitted that from the said documents it is evident that in the school register, date of birth of the applicant is shown as 05-03-1957. Learned P.O. pointed out that in the School Leaving Certificate as well as in the copy of the bona fide certificate issued on 24-03-2018, the date of birth of the applicant is recorded as 05-03-1957. Learned P.O. submitted that in view of the documentary evidence on record the contentions raised on behalf of the applicant are proved to be fallacious. Learned P.O., therefore, prayed for dismissal of the O.A.

5. I have duly considered the submissions advanced on behalf of the applicant as well as the respondents. Which is the correct date of birth of the applicant, whether 05-03-1957 or 05-03-1969 is the issue which falls for my determination in the present O.A. In support of his contention that his correct date of birth is 05-03-1969, the applicant has placed reliance on the copy of the School Leaving Certificate dated 08-01-1993 as well as his PAN Card and Adhar Card.

6. Learned Counsel for the applicant has also brought to my notice that the applicant had filed Misc. Criminal

Application No.92/2019 under provisions of Section 13(3) of Birth and Death Registration Act, 1969. In the said matter, Judicial Magistrate First Class, Nilanga has passed order thereby directing the Gram Panchayat, Yelnur to record his date of birth in the Gram Panchayat record as 05-03-1969. Learned Counsel submitted that on the basis of the aforesaid order, birth certificate has been issued by the Gramsevak, Gram Panchayat, Yelnur. According to the learned Counsel, that is the conclusive proof as about the date of birth of the applicant. Learned Counsel has brought to my notice the criminal proceeding initiated against the family members of Dilip Solunke on whose complaint the applicant has been dismissed from the post of Police Patil.

7. I have gone through the documents so relied upon by the applicant. The order passed in Misc. Criminal Application No.92/2019 cannot be said to be evidence or authentic document to hold that 05-03-1969 is the real date of birth of the applicant. On perusal of the order passed by the JMFC, Nilanga, it is quite evident that the said order has been passed on the strength of the affidavit filed by the applicant and his father. Only because none raised objection to the public notice issued under the

orders of JMFC, Nilanga, it is difficult to agree that on the sole basis the date of birth of the applicant shall be conclusively held as 05-03-1969.

8. Similarly, the another reason that the applicant had filed criminal complaint against the relatives of the complainant Dilip Solunke and enraged because of that said Dilip Solunke made a false complaint against the applicant also cannot be held to have resulted in passing of order of dismissal by respondent no.3. Respondent authorities have taken a firm stand justifying the order of dismissal passed against the applicant. Respondents have also placed on record copy of the School Leaving Certificate and extract of the general register of Lal Bahadur Shastri Vidyalaya, Hasori (Bk) maintained in ordinary course of business. A copy of the bona fide certificate issued by the said School is also filed on record by respondents. The aforesaid documents revealed the date of birth of the applicant as 05-03-1957. Though learned Counsel for the applicant argued that the documents produced on record by the respondents are false and the documents which are submitted by the applicant are genuine, it is difficult to agree with his submissions.

9. In paragraph 8 of the affidavit in reply filed on behalf of respondent no.4, respondents have explained the circumstances leading to the order of dismissal passed against the applicant. I deem it appropriate to reproduce hereinbelow the said paragraph no.8, which reads thus:

*“08. I say and submit that, the grounds for raising grievance are totally false made by the appellant, and hence denied by the present deponent. I humbly say that, the respondent No.1 carried out the inquiry through Block Education Officer, Panchayat Samiti, Nilanga and perused the record of Lal Bahadur Shastri Vidyalaya, Hasori BK, Taluka Nilanga, District Latur about the date of birth of the appellant in general register maintained by the school and then after verifying the said report the respondent No.4 given his judgment, after following due process of law. In the said inquiry it is found that, the date of birth of the appellant on school living certificate and in the record of the above school the date of birth is different one. So, the order passed by the respondent No.4 is proper one. Hereto annexed and marked as **EXHIBIT R-1** is the copy of leaving certificate and enquiry report dated 05.06.2018 for kind perusal of this Hon’ble Tribunal.*

I further say and submit that, it is false to say that, by passing the impugned order the respondent No.4 victimized the applicant of such false and baseless complaint, so denied. But infact the respondent No.4 passed his order after verifying the school record of the appellant about the date of birth of the applicant, so the order of the respondent No.4 is proper one. I humbly say that, the respondent No.4 passed his order after inquiry through Block Education Officer, Panchayat Samiti Nilanga, so the order of the respondent No.4 is lawful and proper one and according to law. Therefore, present applicant is not entitled for any relief as claimed by him and hence present Original

Application filed by applicant my kindly be dismissed.”

(Reproduced ad-verbatim from p.b.page 37-38 of O.A.)

10. Applicant has not filed any rejoinder countering the contentions so raised in the affidavit in reply filed on behalf of the respondents. The applicant has also not filed any rejoinder affidavit disputing the genuineness of the documents filed on record by the respondents along with their affidavit in reply. Further, nothing has been stated on behalf of the applicant as to why the BEO, Panchayat Samiti, Nilanga will submit false documents and false report against the applicant. Further contention of the applicant that, no opportunity of hearing was given to him also cannot be accepted. Record shows that the show cause notice was issued to the applicant and the applicant has given his reply to the same. Therefore, I see no reason to discard the documentary evidence placed on record by the respondents along with their affidavit in reply. As has been alleged by the applicant, it may be true that Dilip Solunke may have some grudge against the applicant but nothing has been alleged against the BEO, Panchayat Samiti, Nilanga who submitted report and documents showing the date of birth of the applicant as 05-03-1957.

Applicant has thus failed in making out any case for causing interference in the impugned order.

11. The alternative submission made on behalf of the applicant that the matter may be remitted back for a fresh enquiry in the matter also does not appear to be acceptable. As I have mentioned hereinabove, the applicant has not disputed or denied the contentions raised in paragraph 8 of the affidavit in reply filed on behalf of the respondents. The applicant has also not denied that the genuineness of the documents placed on record by the respondent authorities along with their affidavits in reply. In the circumstances, there appears no need for any fresh enquiry in the matter. Hence, the alternative prayer also deserves to be turned down. For the reasons stated above, following order is passed:

ORDER

Original Application is dismissed however without any order as to costs.

VICE CHAIRMAN

Place : Aurangabad
Date : 08.12.2022.