

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.131/2015. (S.B.)

1. Sanjay Vitthal Hiwrale,
Aged about 21 years,
Occ-Service,
R/o At Post-Sawargaon,
Tehsil-Kalamb, Dist. Yavatmal.
2. Ganpat Bansi Jumnake,
Aged about 38 years,
Occ-Service,
R/o Paloti, Post-Metikheda,
Tehsil-Kalamb, Dist. Yavatmal.
3. Kapil Mangal Khonde,
Aged about 26 years,
Occ-Service,
R/o Deonala, Post- Jodmoha,
Tehsil-Kalamb, Dist. Yavatmal.

Applicants.

-Versus-

1. The State of Maharashtra,
Through its Chief Secretary,
Mantralaya, Mumbai-32.
2. The Secretary,
Revenue Department,
Govt.of Maharashtra, Mumbai-32.
3. The Collector,
Yavatmal.
4. The Sub-Divisional Officer,
Yavatmal.

5. The Tahsildar,
Kalamb, Distt. Yavatmal.
6. Vaishali Suresh Dhage (Women), Paloti,
R/o Mukkam Jhadkini,
Post-Dongar Kharda,
Tq. Kalamb, Distt. Yavatmal.
7. Umesh Vijay Wankhede (OBC),
Sawargaon, Talegaon, Pimpalkuti,
R/o Mukkam Talegaon, Post-Sawargaon,
Tq. Kalamb, Distt. Yavatmal.
8. Manoj Amarsingh Pawar (OBC),
R/o Mukkam Devnala,
Devnala, Ganeshwadi.

Respondents

Shri A.R. Bhole, Advocate holding for Shri A.S. Athalye, the Ld. counsel for the applicant
Shri A.M. Khadatkhar, the Ld. P.O. for the respondents 1 to 5.
None appeared for respondent Nos. 6 to 8.

Coram:-Shri J.D. Kulkarni,
Vice-Chairman (J)

JUDGMENT

(Delivered on this 30th day of November 2018.)

Heard Shri A.R. Bhole, Advocate holding for Shri A.S. Athalye, the Ld. counsel for the applicant and Shri A.M. Khadatkhar, the learned P.O. for the respondents 1 to 5. None appeared for the respondent Nos. 6 to 8.

2. The applicants in this O.A. have claimed that the Proclamation dated 11.2.2015 (Annexure A-5, A-6 and A-7) issued by

respondent No.5 and the communication vide letter dated 21.1.2015 (Annexure A-4) issued by respondent No.3 whereby the post of Kotwal was reserved for various categories Sajjawise be declared as illegal and arbitrary and the respondents be directed to consider the applicants for the post of Kotwal in their respective villages i.e. Sawargaon, Paloti and Ganeshwadi / Devnala. The applicants are also claiming tht the appointment orders for the post of Kotwal of respondent Nos. 6, 7 and 8 be quashed.

3. As per Annexure A-5, the Tehsildar, Kalamb has issued a Notification on 11.2.2015 whereby the post of Kotwal of mouza Sawargaon was kept reserved for OBC candidate. Vide notification dated 11.2.2015 (Annexure A-6), the Tehsildar, Kalamb has notified the post of Kotwal reserved for OBC category candidate at saza Paloli, Kinwat, Malegaon and Zadkheni villages, whereas s per notification (Annexure A-7) dated 11.2.2015, the Tehsildar, Kalamb has reserved the post of Kotwal at mouza Ganeshwadi for OBC candidate. This Ganeshwadi includes Devnala, Devtalpida and Pimpalkuti villages. Accordingly, recruitment process has been carried out and the respondent Nos. 6 to 8 were appointed illegally on the respective posts.

4. The recruitment process was carried out whereby the written examination was scheduled on 1.3.2015. The list of notified candidates was published on 3.3.2015 and oral interview was taken on 5.3.2015. Documents were verified on 7.3.2015 and final appointment order was to be made on 9.3.2015. The applicants were not allowed to appear in the examination and they lost the opportunity, as the posts were reserved for OBC candidates. The applicant No.1 belongs to SC category, applicant No.2 belongs to SC category and the applicant No.3 also belongs to SC category. It is stated that the respondents have adopted arbitrary procedure for reserving the post of Kotwal on Sajawise basis, whereas in fact as per the Government policy adopted in 1974, the sons of Kotwals are to be given preference for appointment to the post of Kotwal.

5. The respondent Nos. 3 to 5 have resisted the claim by filing an affidavit. It is stated that the G.R. dated 28.1.1974 is not applicable in view of subsequent G.R. issued by the Government on 5.9.2013 which supersedes all earlier G.Rs. It is stated that the post of Kotwal does not fall under the category of compassionate appointment and the said posts are filled in as per 100 point roster. The roster of reservation has been issued for vacant posts in the Tehsil after following due procedure and accordingly two posts were

reserved for OBC candidates and one post was reserved for VJ(A) category candidate. The said roster is decided as per G.R. dated 5.9.2013. Therefore, the appointments issued to respondent Nos. 6 to 8 were duly followed.

6. The learned P.O. submitted that the issue regarding application of roster point for the post of Kotwal has been dealt with by this Tribunal in **O.A. No. 137/2015 in case of Gajanan Girdhari Shende V/s State of Maharashtra and others** alongwith O.A. Nos. 153/20013 and 196/2013. The said judgment has been delivered by this Tribunal on 11.2.2015 and a copy of the said judgment is placed on record at page Nos. 89 to 94. In the said judgment, this Tribunal observed as under:-

“To appreciate the contention advanced at bar, the G.R. dated 20.5.10, (Annexure A-3) needs to be perused. Clause (C) in the G.R. being relevant is reproduced below:-

कोतवालासाठी सध्या अस्तित्वात असलेली २०० बिंदू नामावली ऐवजी सामान्य प्रशासन विभाग निर्णय दिनांक २९.३.१९९७ नुसार १०० बिंदू नामावलीची अंमलबजावणी करावी व आरक्षण कायद्यातील तरतूदिदेखील विचारात घ्याव्यात.”

In view of the above, stand taken by the respondents that, by following 100 point roster system, the post of Kotwal for village Dhapewada

was shown as reserved for NT (B) category for village Kherdi. It is shown as reserved for NT (C) category and for village Sawargaon, it is shown as reserved for NT (B) category, cannot be faulted with. In the result, there being no substance in these O.As. Accordingly, they are dismissed with no order as to costs.”

7. It is an admitted fact that the cases of the present applicants are also covered by the observations made by this Tribunal.

8. It seems from the record that, the Government has taken a policy decision to reserve the post of Kotwal Sajawise under 100 point roster and the same policy decision has not been challenged in this O.A. The Tehsildar, Kalamb has issued a notification as per the policy decision of the Govt. and accordingly the posts of Kotwal were reserved and the applications were called from reserved category candidates. Admittedly, the present applicants do not belong to reserved category for which the applications were called and, therefore, in such circumstances, applicants' claim is not tenable. There is nothing on record to show that the due process was not followed for appointing respondent Nos. 6 to 8 as Kotwal for their respective villages. In such circumstances, I do not find any

reason to interfere with the policy decision taken by the Govt. to keep the post reserved for a particular category as per 100 point roster. Thus, there is no merits in the O.A. Hence, I proceed to pass the following order:-

ORDER

O.A. stands dismissed with no order as to costs.

Vice-Chairman(J)

Dt. 30.11.2018.

pdg.