

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.709 OF 2018

(Subject :- Police Patil)

DISTRICT : JALGAON

Shital Manohar More,)
Age:27, Occu.: HouseHold,)
R/o. Adgao, Tq. Parola,)
Dist. Jalgaon.)...**Applicant**

V E R S U S

1. **The State of Maharashtra,**)
Through its Secretary,)
Home Department,)
Mantralaya, Mumbai – 32.)
2. **The Collector,**)
Collector Office,)
Jalgaon.)
3. **The Sub Divisional Officer,**)
Sub Division, Erendol,)
Tal Erandol, Dist: Jalgaon.)
4. **Bhavna Rahul Patil,**)
Age:25 Occ: Household)
R/o. Gadgao, (Adgao))
Tal: Parola,)
District: Jalgaon.)**Respondents.**

Shri Manish V. Bhamre, learned Advocate for the Applicant.

**Shri N.U. Yadav, learned Presenting Officer for the Respondent
Nos.1 to 3.**

Shri M.R. Kulkarni, learned Advocate for the Respondent No.4.

CORAM : **B.P. Patil, ACTING CHAIRMAN**

DATE : **31.07.2019.**

ORDER

1. The Applicant has challenged the appointment of the Respondent No.4 on the post of Police Patil of village Adgaon, Taluka-prola, District- Jalgaon made by the Respondent No.3 by impugned order dated 29.8.2018 and has also challenged the impugned order dated 10.09.2018 rejecting her complaint application dated 30.8.2018.

2. It is contention of the Applicant that she along with the Respondent No.4 and other aspiring candidates filed applications for appointed on the post of Police Patil of village Adgaon in pursuance of the advertisement dated 05.05.2018. It is her contention that she, Respondent No.4 and other aspiring candidates were participated in recruitment process. She, has successfully passed the written examination along with the Respondent No.4. It is contention her contention that the Respondent No.3 has called the Respondent No.4, Applicant and one Seema Amrutrao Patil for oral interview and he has

conducted the oral interview. After conducting the oral interview, the result has been declared. Seema Amrutrao Patil has been declared as successful candidate and name of the Respondent No.4 has been kept on waiting list. The Respondent No.4 thereafter raised objection regarding appointment of one Seema Patil. Therefore, Seema Amrutrao patil had withdrawn her candidature. Therefore, the Respondent No.4 has been appointed as Police Patil of village Adgaon by order dated 29.8.2018. It is her contention that the Respondent No.4 is resident of village Gadgao. But she has suppressed the said fact and got appointment in her favour illegally. It is her contention that as soon as the applicant got knowledge of the said fact, she filed an application dated 30.8.2019 with the Respondent No.3 raising objection regarding residence of the Respondent No.4 and prayed to cancel her appointment and also prayed to appoint her in place of the Respondent No.4.

3. It is contention of the Applicant that the Respondent No.3 had not considered her contentions and without conducting an enquiry in the complaint, rejected her application by impugned order dated 10.09.2018 and directed the Applicant to approach the competent forum. It is contention of the Applicant that the impugned order is illegal as no hearing has been

conducted by the Respondent No.3 in respect of grievance raised by the Applicant. It is contention of the Applicant that the Respondent No.3 ought to have decided the application of the Applicant on merit after conducting due enquiry and he ought to have cancelled the appointment of the Respondent No.4 on the post of Police Patil of village Adgaon as she is not permanent resident of village Adgaon. It is her contention that the Respondent No.3 has passed the impugned order illegally and therefore, he has approached this Tribunal by filing the Original Application.

4. The Respondent Nos.2 & 3 have resisted the contention of the Applicant by filing their affidavit-in-reply. It is their contention that after conducting the written examination and oral interview, it was found that one Seema Amrutrao patil has secured highest marks and therefore, she was declared as selected candidate and accordingly she was appointed on the post of Police Patil of Village Adgaon. She was given appointment order on 27.8.2018. However, on the same date, she resigned from the post of Police Patil of village Adgaon and therefore, the Respondent No.4 i.e. Bhavna Rahul Patil has been appointed on the post of Police Patil of village Adgaon by appointment order 29.8.2018 as her name was kept on the waiting list as she stood

2nd in merit. It is their contention that at the time of oral interview and verification of documents, the Respondent No.4 has submitted documents i.e. residential proof of village Adgaon, Adhar card and a certificate issued from Gram Sevak, Adgaon which shows that she is resident of village Adgaon. She has also submitted an affidavit dated 3.9.2018 in that regard. On the basis of said documents, she has been selected and appointed on the post of Police patil of village Adgaon and accordingly, she has been appointed as Police Patil of village Adgaon. It is their contention that after appointment of the Respondent No.4 on the post of Police Patil of village Adgaon, the Applicant had filed the complaint/application with the Respondent No.2, Collector, Jalgaon and Respondent No.3 Sub Divisional Officer, Erandol, along with the documents i.e. voters list and Namuna No.8. The said documents were not sufficient to conclude that the Respondent No.4 was not resident of village Adgaon. Moreover, the Respondent No.4 had already been appointed on 29.8.2019. Therefore, the Respondent No.3 has rightly rejected the application of the Applicant by order dated 10.9.2018 and advised the Applicant to approach the competent forum.

5. It is their contention that thereafter the Applicant had filed one more application dated 6.10.2018 before the

Respondent No.3 raising objection that the Respondent No.4 is resident of village Gadgaon and not of village Adgaon. But prior to that, the Applicant had filed the present Original Application in this Tribunal. Since the Applicant has approached this Tribunal, and matter is sub-judice, the application of the Applicant has not been decided by the Respondent No.3. It is their contention that there is no illegality in the impugned order. Therefore, they have prayed to reject the Original Application.

6. The Respondent No.4 has resisted the contention of the Applicant by filing her affidavit-in-reply. It is her contention that in pursuance of the advertisement dated 05.05.2018, she made an online application for appointment on the post of Police Patil of village Adgaon Tq. Parola Dist. Jalgaon. She participated in recruitment process. She successfully passed written examination. On the basis of marks secured in the written examination, she was called for oral interview. At the time of oral interview, her documents were verified by the committee appointed for recruitment and thereafter, her oral interview has been conducted. One Seema Amrutrao Patil has secured highest marks and therefore, she was selected and appointed on the post of Police Patil of village Adgaon. But on the same day, she has resigned from the said post. It is her contention that she

stood 2nd in the merit and therefore, she has been appointed as Police Patil of Village Adgaon by the Respondent No.3 by dated 29.8.2018. It is her contention that she is permanent resident of village Adgaon and she has produced sufficient documents in that regard before the S.D.O. It is her contention that the Respondent No.3 issued an appointment order in her favour after considering all these aspects and therefore, there is no illegality in the impugned order.

7. It is her contention that the Applicant has filed the complaint/application with the Respondent No.3 raising objection regarding ration card issued in the name of her mother-in-law. She has not produced sufficient documents in support of her contentions before the S.D.O. and therefore, the Respondent No.3 has rightly rejected her application by impugned order.

8. The Applicant has filed an affidavit-in-rejoinder and raised the similar contentions to that of the contentions raised in the Original Application and prayed to allow the Original Application.

9. The Respondent No.4 has filed affidavit-in-sur-rejoinder and resisted the similar contention to that of the contentions raised in the affidavit-in-reply filed by her.

10. I have heard Shri M.V. Bhamre, learned Advocate for the Applicant, Shri N.U. Yadav, learned Presenting Officer for the Respondent Nos.1 to 3 and Shri M.R. Kulkarni, learned Advocate for the Respondent No.4. I have perused the documents on record.

11. On perusal of record it reveals that the Applicant, Respondent No.4 and one Seema Patil and other aspiring candidates participated in the recruitment process for the post of Police Patil of village Adgaon, Tq. Parola, Dist. Jalgaon. They appeared for written examination. After declaring the result of the written examination, the Applicant, Respondent No.4 and one Seema Patil were called for oral interview as they secured highest marks. In the oral interview, one Seema Patil secured highest marks while the Respondent No.4 stood 2nd in the merit and the Applicant stood 3rd in the merit. On the basis of the marks secured by them in written and oral interview, Seema Amrutrao Patil was declared as selected candidate as she secured highest marks. Therefore, the Respondent No.3 appointed her as Police

patil of village Adgaon by order dated 27.8.2018. But on the very day, Seema Patil has resigned from the post of Police Patil of village Adgaon and informed the Respondent No.3 accordingly. Therefore, the Respondent No.3 appointed the Respondent No.4 Bhavna Rahul Patil, who stood 2nd in the merit on the post of Police Patil of village Adgaon by appointment order dated 29.8.2018. On 30.9.2018, the Applicant raised objection before the Respondent No.3 by filing the application that the Respondent No.3 is resident of village Gadgaon and not of village Adgaon. The Respondent No.4 has suppressed the said fact and got appointment order in her favour illegally. She has also filed the application with the Collector also in that regard.

12. The Respondent No.3 has passed the impugned order 10.9.2018 and rejected the application of the Applicant on the ground that the Respondent No.4 had already been appointed as Police Patil by order dated 29.8.2018 and directed the Applicant to approach the competent forum challenging the appointment of the Respondent No.4. The impugned order which is at page no.36 of the Original Application reads as follows:-

“प्रति,

सौ. शितल मनोहर मोरे
रा. आडगांव ता. पारोळा जि. जळगांव

विषय:- मौजे आडगांव ता. पारोळा जि. जळगांव येथील पोलीस पाटील

निवडीवर आक्षेप घेणे बाबत.

संदर्भ:- आपला दिनांक मा. जिल्हाधिकारी जळगांव यांच्याकडे सादर केलेला दिनांक /०८/२०१८ रोजीचा अर्जाची प्रत व प्राप्त दिनांक ३०/०८/२०१८.

उपरोक्त संदर्भीय विषयान्वये आपणास सुचित करण्यात येते की, आपण दिनांक १८/०८/२०१८ रोजी मा. जिल्हाधिकारी, जळगांव यांचेकडे मौजे आडगांव येथील पोलीस पाटील निवडीबाबत आक्षेप घेतलेला होता. सदर आक्षेप अर्जाची एक प्रत इकडील कार्यालयात दिलेली आहे.

तथापी सदर गांवी पोलीस पाटील नेमणुकीचा आदेश सौ. पाटील भावना राहूल रा. आडगांव यांना दिनांक २९/०९/२०१८ रोजी आदेश देण्यात आलेला आहे. त्या अनुषंगाने आपण झालेल्या निवडी बाबत योग्य त्या सक्षम न्यायालयात अर्ज दाखल करून पुढील कार्यवाही करावी. सबब आपला दिनांक /०८/२०१८ रोजीचा तक्रार अर्ज निकाला काढ्यात येत आहे.

उप विभागीय दंडाधिकारी
एरंडोल भाग एरंडोल''

13. On perusal of above said order it reveals that the Respondent No.3 who is appointing authority for the post of Police Patil had not made enquiry in the allegations made in the application filed by the Applicant regarding permanent residence of the Respondent No.4. Infact, he ought to have conducted enquiry by giving opportunity of hearing to both the parties. He ought to have decided the matter on merit after making due enquiry by giving proper opportunity of hearing to both parties. But he had not followed the due procedure and rejected the application of the Applicant by impugned order without recording sound reasons.

14. The Respondent No.3 is the appointing authority for the post of Police Patil and he is empowered to remove or dismiss the Police Patil in accordance with provisions of Section 9 of Maharashtra Village Police Patil Act, 1967. But the Respondent No.3 has not considered the said aspect and rejected the application of the Applicant. He has rejected the application of the Applicant simply on the ground that appointment has already been given to the Respondent No.4. Therefore, the impugned order is not in accordance with the provisions of the Act.

15. In these circumstances, it is just and proper to direct the Respondent No.3 to reconsider the complaint/application dated 30.8.2018 filed by the Applicant afresh and to take decision on it on merit by giving an opportunity of hearing to both the parties. Therefore, the impugned order requires to be quashed and set aside by allowing the Original Application.

16. In view of above, the Original Application is allowed. Impugned order dated 10.9.2018 issued by the Respondent No.3 rejecting the application of the Applicant is quashed and set aside. Matter is relegated to Respondent No.3 i.e. S.D.O. Erendol to make proper enquiry in the application filed by the Applicant by giving proper opportunity of hearing to both the parties and

decide the same on merit within three months from today. The Applicant and Respondent No.4 are directed to appear before the Respondent No.3 on 8.8.2019. No order as to cost.

PLACE :- AURANGABAD.
DATE :- 31.07.2019

(B.P. PATIL)
ACTING CHAIRMAN

Sas. O.A.No.709 of 2018.Police Patil. BPP VC