

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO.712/2015.**

Dilip Hiranmanji Pradhan,  
Aged about 39 years, Occ : Labour,  
R/o Ashtikala, Tq. Kalmeshwar,  
District Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra  
through its Secretary,  
Department of Home,  
Mantralaya, Mumbai-32.
- 2) The District Collector,  
Nagpur.
- 3) The Sub-Divisional Officer,  
Saoner, Distt. Nagpur.
- 4) Harish Pandhari Chankarapure,  
Aged about 26 years, Occ : Labour,  
R/o Ashtikala, Tq. Kalmeshwar,  
District Nagpur.

**Respondents**

---

Shri V.D. Mulay, Advocate for the applicant.  
Shri A. M. Ghogre, P.O. for respondent Nos.1 to 3.  
Shri R.N. Deshpande, Advocate for respondent No.4.

---

**Coram:- B. Majumdar, Vice-Chairman**

**Dated: - 21<sup>st</sup> April 2016.**

---

**ORDER**

7 The applicant is aggrieved that he has not been selected for the post of Police Patil on the ground that he does not own property in the village.

2. The Sub-Divisional Officer, Saoner (R.3) on 7.8.2015 issued a proclamation for filling up of the post of Police Patil for the village Ashtikala, Tehsil Kalmeshwar, District Nagpur. The condition No.3 of eligibility is that the applicant should have immovable property under his ownership in the village. In the written test, the applicant scored 72 marks whereas respondent No.4 i.e. Harish Pandhari Chankarapure, scored 60. The select list was published on 7.11.2015. It shows that respondent No.4 has been selected and the applicant, though he stood first in merit, is not selected as he does not have proof of owning immovable property. The applicant has challenged the legality of this list in the O.A. On 27.11.2015, the Tribunal, by way an interim order directed that the appointment order should not be issued during the pendency of the O.A.

3. The applicant submits that he alongwith his mother jointly owns a house at Ashtikala and resides there. He further submits that owning immovable property in one's name is not a condition of eligibility for appointment as Police Patil as per the provisions of the Maharashtra Village Police Patil (Recruitment, Pay, Allowances and

other conditions of Service) Order, 1968. Thus, his selection could not have been denied on the ground that he does not have immovable property in the village.

emj 4. Respondent No.3 submits that as per the G.R. dated 7.9.1999 of the Home Department, it is mandatory for a candidate to possess ~~the~~ immovable property in the village in his name for appointment as Police Patil and this condition was itself incorporated in the proclamation dated 7.8.2015. As the applicant has failed to produce any document of ownership of property ~~in~~ in the village, he was not selected.

5. Respondent No.4 has also filed his reply. He submits that the applicant had made a fake declaration that he owns a house in Ashtikala jointly with his mother. Thus, he does not fulfill the condition of ownership of property as stipulated in the proclamation. He further submits that the applicant having participated in the entire recruitment process and being aware of the above condition in the proclamation, cannot now protest against his non selection by raising objection. The applicant has also not challenged the proclamation before the competent authority or any court. As he has a case on merit and he fulfills all the conditions of eligibility, he was selected.

6. Shri A.M. Ghogre, the learned P.O. for respondent Nos. 1 to 3 as also Shri R.N. Deshpande, the learned counsel for respondent No.4 reiterated the submissions made by the respective sides.

7. I find that it is undisputed that the applicant scored the highest marks in the written test and <sup>the</sup> only ~~the~~ reason why he was not selected is that he could not demonstrate that he possessed immovable property in the village Ashtikala.

8. Shri V.D. Mulay, the learned counsel for the applicant submitted that the selection of the applicant could not have been rejected merely on the ground that he did not own property in the village. He relied on **Arun Tukaram Patil V/s State of Maharashtra and others [1999 (3) Mh.L.J. 594]** wherein Hon'ble the High Court had held that ~~the~~ possession of the property is not a criterion for eligibility for appointment as Police Patil. As regards the applicant's participation in the recruitment process, as the applicant jointly owns a house with his mother in the village, he had interpreted Clause 3 of the conditions of eligibility of the proclamation to mean that owing a house jointly with the mother amounts to fulfilling the condition of owing immovable property. However, as owing of property is not a condition

precedent for applying for the post as per law laid down as above, the said eligibility condition is untenable.

9. I find that the applicant has scored higher than respondent No.4 in the written test. He is however not selected on the sole ground that he does not own immovable property in the village Ashtikala. In **Arun Tukaram Patil**, the Hon'ble the High Court had held that, Rule 3 of the Police Patil Order, 1968 provides the criteria of eligibility for appointment as Police Patil. The said rule does not require owning of property in the village as a condition of eligibility. Hon'ble the High Court has thus held that possession of landed property is not a criterion of eligibility and the appointment cannot be set aside on this ground. Hon'ble the High Court while disposing of the *W.P. No. 1228/2014* **(Rajesh Krishna Kale V/s State of Maharashtra and three others)** had observed that the G.R. dated 7.9.1999 nowhere states that holding of land in his name is mandatory for a person aspiring for appointment as Police Patil. It then relied on **Arun Tukaram Patil** (supra) and held that possession of landed property is not a criterion for appointment for the post of Police Patils as per the Police Patil Order, 1968. Thus the law has been clearly laid down that it is not necessary for a candidate to own any immovable property in the village for appointment as Police Patil.

10. As regards the submission of the respondents that the applicant being very much aware of the condition of ownership of property in the village as stipulated in the proclamation and having participated in the recruitment process without any protest, is now estopped from approaching this Tribunal, I find merit in the submission of the learned counsel for the applicant that the applicant having joint ownership of a house in the village alongwith his mother and staying in that house, had assumed that he fulfilled this specified condition. Hence, it cannot be said that having participated in the recruitment process, he cannot now agitate his case before this Tribunal.

11. In view of the above, I find that the applicant has been wrongly denied selection as Police Patil of village Ashtikala, inspite of having scored the maximum marks in the written test, on the ground that he does not own immovable property in the village. The impugned select list therefore is not legally sustainable. Hence, the O.A. stands disposed of in terms of the following order:

- (a) The O.A. is allowed.
- (b) The select list dated 7.11.2015 is quashed and set aside.
- (c) The respondent No.3 is directed to select the applicant for the post of Police Patil for village Ashtikala being the most meritorious candidate and grant him appointment if he is found to be otherwise fulfilling all other requirements for the post.

(d) Necessary orders in this regard will be issued within four weeks of receipt of this order.

(e) No order as to costs.

sd/-

(B.Majumdar)  
Vice-Chairman

pdg