

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH AT NAGPUR.
ORIGINAL APPLICATION NO. 739 of 2015

Shrawan Wasudeo Mowade,
Aged about 43 years,
R/o Joga, Gaimukh Nanda Tahsil Saoner,
Distt. Nagpur.

----- **APPLICANT**

VERSUS

1. The State of Maharashtra through its
Secretary, Deptt. of Home,
Mantralaya, Mumbai.
2. The Sub-Divisional Magistrate,
Tah. Saoner, Distt. Nagpur.
3. Shri Dilip Govinda Guratkar,
R/o Joga, Tah. Saoner, Distt. Nagpur. ----- **RESPONDENTS**

Shri S.B. Tiwari, Counsel for Applicant.
Smt. M. A. Barabde, P.O. for Respondents 1 and 2.
None for R/3.

CORAM : B. Majumdar : Vice Chairman
DATE : 7th April , 2016


ORDER

The applicant's grievance is that he has been denied appointment as Police Patil on the ground that he does not have immovable property in the village.

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2. The Sub-Divisional Magistrate, Saoner, Distt. Nagpur (R/2) on 7/8/2015 issued a proclamation for filling up of the post of Police Patil for village Joga from the category of OBC. As per the merit list, the applicant scored 80, whereas, Shri Dilip Govinda Guratkar (R/3) scored 65. One Shri Dhanraj Bhauro Mowade had scored 70. Thus the applicant was 1st in merit and the R/3 was 3rd. As per the select list, R/3 is selected for the post and it is stated that candidates at merit list No.1 and 2 were not selected as they did not have proof of owning immovable property in the village. The applicant has challenged this select list in the present O.A. On 1/12/2015 the Tribunal stayed the process of appointment.

3. The applicant submits that he has scored the highest as per merit and he is a permanent resident of village Joga. It is not obligatory for him to own land in the village to qualify for the post of Police Patil.



4. The SDM, Saoner in her affidavit-in-reply relies on the G.R. dtd.7/9/1990 as also the condition as stipulated in the proclamation that for qualifying for the post of Police Patil it was necessary to own immovable property in the village. As the applicant did not own land in Joga, even though he was the highest scorer, his application was rejected.

5. Shri S.B. Tiwari, Id. Counsel for the applicant submitted that Clause-3 of the Maharashtra Village Police Patil (Recruitment , Pay, Allowances and other conditions of Service) Order, 1968 (hereinafter referred to as the Order, 1968) governs the conditions of recruitment of Police Patil. As per this Clause a candidate is required to be a resident of the village and there is no condition stipulated that he should own land in the village. The applicant clearly fulfilled this condition. He relied on the judgment of Hon'ble the High Court in **Arun Tukaram Patil vs State of Maharashtra and Others [1999 (3) Mh.L.J. 594]** as also the order dtd. 23/12/2014 in W.P. No.1228/2014 [**Rajesh Krishna Kale vs State of Maharashtra and others**]. Hon'ble the High

Court had clearly held that holding of land in one's name was not a requirement of eligibility as per Regulations 3(c) and 5(2) of the Order, 1968 for appointment as a Police Patil. The High Court had also held that the G.R. dd. 7/9/1999 nowhere suggested that holding of land in own name is a criterion for a person aspiring for appointment as a Police Patil.

6. There was none for R/3 and no return was also filed on his behalf.

7. Smt. M.A. Barabde, Id. P.O. for R/1 and R/2 reiterated the submissions of the R/2 in her affidavit-in-reply. She however fairly conceded that in view of the above cited judgments of the High Court, the applicant's case could not have been rejected solely on the ground that he did not own property in Joga.

8. I find that it is beyond any dispute that he applicant had scored the highest in merit for the post of Police Patil for village Joga and the only reason for denying him selection

was that he did not own land in the village. Hon'ble the High Court, as we have seen above, in its cited judgments had clearly held that not owning land in the village cannot be an eligibility condition for the post of Police Patil as per the Police Patils' Order, 1968. Thus, action of R/2 in cancelling the selection of the applicant for the post is clearly illegal and unsustainable. Hence, the select list impugned in the O.A. is quashed and set aside. It is held that the applicant is to be appointed as Police Patil for village Joga on the basis of his merit. The respondents will issue necessary orders in this regard. ^w Within 4 weeks of receipt of this order.

The O.A. stands disposed of in terms of the above order with no order as to costs.

sd/-

(B. Majumdar)
Vice-Chairman.

Skt.