

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 737 of 2023 (S.B.)**

1. Shailesh Madhukar Chaware,
aged about 36 years, r/o Ambadi, Post Bhavad,
Tahsil Pauni, District Bhandara.
2. Sau.Priya Kuldip Urade,
aged about 33 years, r/o Adyal, Tahsil Pauni,
District Bhandara.
3. Nitin Nanaji Bhure,
aged about 31 years, r/o Akot, Tahsil Pauni,
District Bhandara.
4. Sau.Bhavna Pradip Bhoyar,
aged 30 years, r/o Kalewada, Post Nerla, Tahsil Pauni,
District Bhandara.
5. Sau.Pratima Gulab Netam,
aged about 33, r/o Keslapuri,
Post Pauni, Tahsil Pauni, District Bhandara.
6. Subodh Prakash Barsagade,
aged about 28 years, r/o Telpendhari, Post Pauni,
Tahsil Pauni, District Bhandara.
7. Prashant Kodandrao Shende,
aged about 30 years, r/o Pannashi, Post Minsi,
Tahsil Pauni, District Bhandara.
8. Sau. Maya Gopal Maske,
aged about 32 years, r/o Fanoli, Post Pimpalgaon,
Tahsil Pauni, District Bhandara.
9. Sau.Kunda Deorao Waghade,
aged about 36 years, r/o Amgaon (Dighori),
Tahsil & District Bhandara.
10. Sau.Priti Vijay Tijre,
aged about 30, r/o Kawadsi, Post Shahapur,
Tahsil & District Bhandara.

11. Sau.Supriya Nilesh Ramteke,
Aged about 35 years, r/o Kondhi, Post Jawaharnagar,
Tahsil & District Bhandara.
12. Sau.Savita Yogesh Halmare,
aged major, r/o Khurshipar,
Tahsil & District Bhandara.
13. Sau. Nita Sharad Bhandarkar,
aged about 42 years, r/o Ganeshpur,
Tahsil & District Bhandara.
14. Sau.Priti Vishnu Dahiwale,
aged about 31 years, r/o Golewadi, Post Minsi,
Tahsil & District Bhandara.
15. Shailesh Bhagrao Nimbarte,
aged about 30, r/o Chicholi, Post Pipri,
Tahsil & District Bhandara.
16. Shrikant Shrikrushna Mate,
aged about 26 years, r/o Tavepar,
Tahsil & District Bhandara.
17. Akash Anil Ramteke,
aged about 26 years, r/o Tekepar (Dodmazari),
Tahsil & District Bhandara.
18. Sau.Vibha Vilas Vaidya, aged about 31 years,
r/o Tekepar (Zabada), Post Manegaon (Bazar),
Tahsil & District Bhandara.
19. Sau. Vaishali Mahesh Dolas, aged about 32 years,
R/o Navegaon, Koka (Forest),
Tahsil & District Bhandara.
20. Sau.Bharti Dharmendra Chaudhari, aged about 26 years,
r/o Paghora, Post Pahela,
Tahsil & District Bhandara.
21. Chandrabhan Kachru Hatwar, aged about 44 years,
r/o Kewtha, Post Pipri, Tahsil & District Bhandara.

22. Nepal Purushottam Dorle, aged about 44 years,
r/o Manegaon(Bazar), Tahsil & District Bhandara.
23. Gurudeo Vasanta Vairagade, aged about 31 years,
r/o Mohadura, Tahsil & District Bhandara.
24. Sau. Sonali Nitin Marbate, aged about 32 years,
r/o Moudi, Post Pahela, Tahsil & Distt.Bhandara.
25. Sau.Archana Hiralal Bhalavi, aged about 30 years,
r/o Ravanwadi, Post Pahela, Tahsil & District Bhandara.
26. Sau. Priyanka Gulchand Dhulase, aged about 31 years,
r/o Wadad (Rehabilitation), Post Nerla,
Tahsil & District Bhandara.
27. Sau.Nutan Kartik Maske, aged about 30 years,
r/o Wakeshwar, Post Pahela, Tahsil & District Bhandara.
28. Sau.Ashvini Samil Humane, aged about 26 years,
r/o Sarpewada, Koka (Forest), Tahsil & District Bhandara.
29. Varsha Jagdish Gotephode Age Major, R/o. Takli,
District: Bhandara.
30. Sheetal Anandrao Pise Age Major:
R/o. Kothurna, Taluka and District: Bhandara.
31. Nitesh Nandakishor Waghmare Age: Major,
R/o. Sonuli, Post: Varthi, Bhandara

Applicants.

Versus

1. State of Maharashtra,
through its Principal Secretary,
Home Department, Mantralaya, Mumbai-32.
2. The District Magistrate / Collector,
Office of the Collector, Bhandara.
3. The Sub Divisional Magistrate /
Sub Divisional Officer, Bhandara, District Bhandara.

Respondents.

**S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicants.
Shri A.M. Ghogre, learned P.O. for respondents.**

WITH

ORIGINAL APPLICATION No. 738 of 2023 (S.B.)

1. Ashish S/o. Yashwant Harde,
Aged about 29 Years, Occupation- Service,
R/o. Grampanchayat Nalgaon, Parisar, Bhandara,
Maharashtra 441910.
2. Vidyatai Digambar Thatkar, Aged about 32 years,
Occupation- Service, R/o. Nehru Ward, Khatkheda,
Bhandara, Sawarla, Maharashtra- 441910.
3. Sheshkanya Manish Selokar, Aged about 32 years,
Occupation- Service, R/o. Nehru Ward,
Main Road, Walani, Bhandara, Maharashtra- 441910.
4. Komal W/o. Vishal Moharkar. Aged about 30 years,
Occupation- Service, R/o. 33, Wadegaon (Sindpuri) Bhendala,
Bhandara, Sawarla, Maharashtra-441910.
5. Varsha Diwekar Panchbhai, Aged about 33 years,
Occupation- Service, R/o. Nehru Ward, Khairi Diwan,
Asgaon, Bhandara, Maharashtra-441910.
6. Bhagyashree Vilas Yelmule, Aged about 32 years,
Occupation- Service, R/o. Nehru Ward, Sindapuri (Pauni),
Bhandara, Sawarla, Maharashtra-441910.
7. Shubham S/o. Pandurang Dehmukh, Aged about 26 years,
Occupation- Service, R/o. Gandhi Ward, Shivnala (Walani)
Bhandara, Sawarla, Maharashtra-441910.
8. Praful S/o. Nathhu Shiwankar, Aged about 31 years,
Occupation- Service, R/o. Near Hanuman Mandir,
Subhash Ward, Lawadi, Bhandara, Maharashtra-441910.
9. Shubham S/o. Ashok Khobragade, Aged about 29 years,
Occupation- Service, R/o. Datt Mandir Parisar,
Ambedkar Ward, Ruyal (Pauni) Bhandara,
Maharashtra- 441910.

10. Anil S/o. Tukaram Nakhate, Aged about 42 years, Occupation- Service, R/o. Gandhi Ward, Mokhara, Palora, Bhandara, Maharashtra- 441908.
11. Surendra S/o. Sudhakar Bhendarkar, Aged about 34 years, Occupation- Service, R/o. Hanuman Mandir Nehru Ward, Lonhara, Bhandara Maharashtra-441908.
12. Madhuri Someshwar Mankar, Aged about 32 years, Occupation- Service, R/o. Gandhi Ward, Isapur, Visapur, Bhandara, Maharashtra- 441910.
13. Prabhakar S/o. Rajendra Ghyar, Aged about 25 years, Occupation- Service, R/o. Kotalpar, PO Amgaon, Tahsil Paoni, Bhandara, Maharashtra- 441910.
14. Shilpa Tarachand Kore, Aged about 29 years, Occupation- Service, R/o. Gandhi Ward, Mohari, Asgaon, Bhandara, Maharashtra- 441910.
15. Balu S/o. Gajanan Mandape, Aged about 40 years, Occupation- Service, R/o. Waigaon, Bhuyar (Pauni), Bhandara, Maharashtra- 441910.
16. Mangala Zunzar Rangari, Aged about 39 years, Occupation- Service, R/o. Grampanchayat Parisar Singori, Wahi (Pauni) Bhandara, Maharashtra-441910.
17. Suchita Moreshwar Motghare, Aged about 34 years, Occupation- Service, R/o. Grampanchayat Parisar Nimagaon(Pauni) Bhandara, , Maharashtra-441910.

Applicants.

Versus

1. The State of Maharashtra, Through its Secretary, Home Ministry, 9th Floor, New Administrative Building. Opp. Mantralaya, Mumbai- 400032.
2. The Collector, Bhandara, MSEB Colony, Bhandara, Maharashtra 441904.
3. Sub-Divisional Magistrate, Bhandara Office, Bhandara.

Respondents.

**S/Shri H.S. Chitale, K.D. Kadasne, Advocates for the applicants.
Shri A.M. Ghogre, learned P.O. for respondents.**

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 05/10/2023.

COMMON JUDGMENT

Heard Shri D.M. Kakani, learned counsel along with Shri G.K. Bhusari, learned counsel for the applicants in O.A. No.737/2023, Shri H.S. Chitale, learned counsel for the applicants in O.A.No.738/2023 and Shri A.M. Ghogre, learned P.O. for the respondents in both the O.As.

2. The issue in both the O.As. are common, therefore, decided by this common Judgment.

3. All the applicants appeared in the written examination of Police Patil of Taluka Bhandara and Pauni. All the applicants successfully passed the written examination. All the applicants along with other candidates were called for oral interview. In the oral interview, the applicants have also got the marks for passing the examination of Police Patil. Thereafter, the appointment orders were issued to all the applicants for the post of Police Patil.

4. Thereafter, some unsuccessful candidates made some complaints to the Collector, Bhandara. The Collector, Bhandara

directed the Additional Collector, Bhandara to make inquiry. The Additional Collector, Bhandara recorded statement of Interview Committee Members and all the complaints were examined by the Additional Collector, Bhandara. He has recorded its findings that whatever findings given by the Sub Divisional Magistrate, in respect of the complaints made by the unsuccessful candidates, are correct and he agreed with the findings recorded by the Sub Divisional Magistrate. The Sub Divisional Magistrate has recorded its findings that the complaints are false. But in the inquiry, the doubts are raised by the Additional Collector that the Appointing Authority, i.e., the Sub Divisional Magistrate has not maintained the record of oral interview. He has destroyed the rough mark sheet of oral interview etc. and therefore he raised suspicion in the report. In the report, he has submitted that all the interview process / appointment of the applicants shall be cancelled and new recruitment is to be done. The said report was submitted by the Collector, Bhandara to the Government of Maharashtra. The Government of Maharashtra directed the Collector, Bhandara to start new recruitment process and cancel the result of old recruitment. Hence, the termination orders are issued to all the applicants under Section 9 (e) of the Maharashtra Village Police Act, 1967.

5. Therefore, all the applicants have challenged the termination orders issued by the Appointing Authority, i.e., Sub Divisional Magistrate, Bhandara and Pauni and communication dated 30/06/2023 by which direction is given to start fresh process of recruitment of Police Patil.

6. The O.As. are strongly opposed by the respondents. It is submitted that there were some complaints against the recruitment process. It was alleged that the candidates who secured more marks in the written examination, they were given less marks in the oral interview etc. There were other complaints also. Those complaints were enquired by the Additional Collector. In the inquiry, it was found that the Committee / Appointing Authority destroyed the rough mark sheets used by the Committee Members after giving marks to the candidates in the oral interview. The Additional Collector had suspicion about the conduct of the oral inquiry and therefore submitted its report to the Collector, Bhandara on 22/05/2023. In the report, he has submitted that the whole recruitment process / appointments shall be cancelled and new recruitment process be started. On the basis of the said report, the Government has issued direction to the respondent no.2, i.e., the Collector, Bhandara to cancel the recruitment and start fresh recruitment process. As per this direction, the Appointing Authority, i.e., the Sub Divisional Magistrate, Bhandara

and Pauni cancelled the appointment orders of the applicants. At last submitted that on the basis of the report submitted by the Additional Collector, Bhandara, the appointments of all the candidates were cancelled and new recruitment is to be started. Hence, there is no merit in these O.As. and liable to be dismissed.

7. While granting the interim relief, this Tribunal has considered all the legal aspects submitted by the side of the applicants. This Tribunal has come to the conclusion while granting the interim relief that Class-I Officer, i.e., the IPS Officer, Social Welfare Officer were the Members of the oral Interview Committee / Appointment Committee. No any action has been taken against them by the Government for the malpractice etc. Some of the Officers were suspended. By considering the merits in these O.As. and considering the Judgments of the Hon'ble Supreme Court pointed out by the side of the applicants, this Tribunal has granted the interim relief. The order dated 30/06/2023 directing the Collector, Bhandara to start fresh selection process of the post of Police Patil was stayed by this Tribunal until further orders.

8. During the course of submission, the learned counsel for the applicants Shri D.M. Kakani has pointed out the various decisions of the Hon'ble Supreme Court. In fact, those decisions were considered by this Tribunal while granting the interim relief. The

learned counsel for applicants has submitted that there was no any illegality on the part of Appointing Authority while conducting the recruitment process. They have followed the Rules. Marks of written examination were not disclosed to the Committee Members of the oral interview. They have given the marks of oral interview as per the performance of the candidates. Those marks were typed and all the Committee Members signed on the mark sheet of oral interview. After calculating the marks of the written examination and the oral interview, the candidates who secured more marks, they were given appointment orders. There is no illegality in the procedure followed by the Appointing Authority. Hence, the impugned order dated 30/06/2023 issued by the Government of Maharashtra directing the Collector, Bhandara to start fresh selection process as well as the order dated 04/07/2023 issued by respondent no.3 are liable to be quashed and set aside.

9. Heard Shri H.S. Chitale, learned counsel for the applicants in O.A.No.738/2023. He has pointed out the Maharashtra Village Police Act, 1967. As per his submission, Section 9 of the Maharashtra Village Police Act, 1967 is in respect of penalty for negligence in the duties etc. As per this Section, termination order is to be issued after conducting the departmental inquiry etc., because, it is in respect of misconduct. The impugned order passed by respondent no.3, i.e.,

Appointing Authority, terminating all the applicants is under Section 9 (e) of the Maharashtra Village Police Act, 1967. It is not legal and correct. There was no any allegation of misconduct against any of the applicants and therefore the order under Section 9 (e) of the Maharashtra Village Police Act, 1967 is illegal and therefore liable to be quashed and set aside.

10. Shri D.M. Kakani, learned counsel for the applicants in O.A. No.737/2023 has pointed out the following Judgments –

(i) The Judgment of the Hon'ble Supreme Court in the case of **Barot Vijaykumar Balakrishna & Ors. Vs. Modh Vinay Kumar Dasrathlal and ors.**

(ii) The Judgment of the Hon'ble Supreme Court in the case of **Lila Dhar Vs. State of Rajasthan & Ors.** in W.P.No.2701/1981, dated 19/08/1991.

(iii) The Judgment of the Hon'ble Supreme Court in the case of **Joginder Singh and others Vs. Roshan Lal and others** in Civil Appeal No.7174/2011, dated 12/10/2001.

(iv) The Judgment of the Hon'ble Supreme Court in the case of **Dr. Keshav Ram Pal Vs. U.P. Higher Education Service Commission, Allahabad and others** in Writ Petition (Civil) No.15767/1984, dated 24/01/1986.

(v) The Judgment of the Hon'ble Supreme Court in the case of **Madan Lal and others Vs. State of Jammu & Kashmir**, in Writ Petition (Civil) No.546/1994, dated 6/2/1995.

(vi) The Judgment of the Hon'ble Supreme Court in the case of **HC Pradeep Kumar Rai & Ors. Vs. Dinesh Kumar Pandey & Ors. in Civil Appeal No.6549/2014, dated 11/05/2015.**

11. The Hon'ble Supreme Court in the case of **Barot Vijaykumar Balakrishna & Ors. Vs. Modh Vinay Kumar Dasrathlal and ors.**, in para-22 has held as under –

“ Further, as noted above the marks obtained by the short listed candidates in the written test were kept in a sealed cover and those were taken out only after the oral interview of all the candidates was over. At the time a candidate appeared for the interview the members of the interview board had no means to know the mark obtained by him/her in the written test. In such a situation we don't see how it could be possible for the interview board to purposefully exclude a candidate by giving less than the minimum qualifying mark for the viva voce even though he/she might have been selected on the basis of the mark obtained in the written test alone.”

12. The Hon'ble Supreme Court in the case of **Lila Dhar Vs. State of Rajasthan & Ors.**, in para-2 has held as under –

“The result of the comparative examination was announced by the Rajasthan Public Service Commission on March 12. 1981 and respondents Nos. 3 to 41 were declared selected for appointment. Out of the 39 candidates who were selected for appointment, one belonged to the scheduled castes and the rest belonged to the

general category. The last of the candidates belonging to the general category who was selected for appointment obtained a total of 190 marks in the examination, 135 in the written examination and 55 in the viva voce. The petitioner who obtained a total of 189 marks. 159 in the written test and 30 in the viva voce was not selected for appointment. He has filed the present writ petition under Article 32 of the Constitution questioning the selection.”

13. The Hon'ble Supreme Court in the case of **Joginder Singh and others Vs. Roshan Lal and others**, in paras-4 and 5 has held as under –

“ 4. In the judgment under appeal, the High Court observed:

“in its opinion, fair amount of time should be given to each one of the candidates so that he may be able to show his worth, ability as per his intellect, to the members of the Selection Committee”.

The High Court further observed:

“that it had no hesitation to hold that the process of selection was a farce and the fair chance was never given to the candidates to show their worth”.

5. On the facts on record we see no justification for the High Court to have come to this conclusion. The High Court in exercise of its jurisdiction under Article 226 of the Constitution is not supposed to act as an Appellate Authority over the decision of the Departmental Selection Committee. If the Committee has been properly constituted, as in this case, and the post is advertised and a selection process known to law which is fair to all, is followed, then the High Court could have no jurisdiction to go into a question whether the Departmental Selection Committee conducted the test properly or not when there is no allegation of mala fides or bias against any member of the

Committee. Merely because there were a large number of candidates who appeared on two days, cannot ipso facto lead to the conclusion that the process of selection was a farce and fair chance was not given. Normally, experienced persons are appointed as members of the Selection Committee and how much time should be spent with a candidate would vary from person to person. Merely because only two days were spent in conducting the interviews for the selection of Class IV posts cannot lead to the conclusion that the process of selection was not proper.”

14. The Hon'ble Supreme Court in the case of **Madan Lal and others Vs. State of Jammu & Kashmir**, in para-17 has held as under—

“17. In the light of what is stated above while dealing with contention No. 1, this contention also must fail. The petitioners subjectively feel that as they had fared better in the written test and had got more marks therein as compared to concerned selected respondents, they should have been given more marks also at the oral interview. But that is in the realm of assessment of relative merits of concerned candidates by the expert committee before whom these candidates appeared for the viva voce test. Merely on the basis of petitioners' apprehension or suspicion that they were deliberately given less marks at the oral interview as compared to the rival candidates, it cannot be said that the process of assessment was vitiated. This contention is in the realm of mere suspicion having no factual basis. It has to be kept in view that there is not even a whisper in the petitioner about any personal bias of the members of the interview committee against the petitioners. They have also not alleged any mala fides on the part of the interview committee in this connection. Consequently, the attack on assessment of the merits of the petitioners cannot be

countenanced. It remains in the exclusive domain of the expert committee to decide whether more marks should be assigned to the petitioners or to the concerned respondents. It cannot be the subject-matter of an attack before us as we are not sitting as a court of appeal over the assessment made by the committee so far as the candidates interviewed by them are concerned. In the light of the affidavit in reply filed by Dr. Girija Dhar to which we have made reference earlier, it cannot be said that the Expert Committee had given a deliberate unfavourable treatment to the petitioners, Consequently, this contention also is found to be devoid of any merit and is rejected.”

15. The learned P.O. has pointed Judgment in O.A.No.737/2023 and following Judgments—

(i) Abhishek Kumar Singh Vs. G. Pattanaik & Ors. (2021) 7 SCC 613.

(ii) Gohil Vishvaraj Hanubha & Ors. Vs. State of Gujarat & Ors. (2017) 13 SCC,621.

(iii) Sachin Kumar & Ors. Vs. Delhi Subordinate Service Selection Board (DSSSB) & Ors., (2021) 4 SCC 631.

16. In the case of ***Gohil Vishvaraj Hanubha & Ors. Vs. State of Gujarat & Ors. (2017) 13 SCC,621*** it is held that “*where there are allegations of occurrence of large-scale malpractices in course of conduct of examination process, State is entitled to cancel the examination and is not obliged to seek proof of each fact which vitiated examination process since purity of examination process is unquestionable rationality of any examination process which State authorities need to maintain.*”

17. The cited Judgment is not applicable in the case in hand because as per the report of the Additional Collector, there is no any allegation of malpractice etc. on the part of the Committee Members or Appointing Authority.

18. The learned P.O. has pointed out the Judgment in the case of **Sachin Kumar & Ors. Vs. Delhi Subordinate Service Selection Board (DSSSB) & Ors., (2021) 4 SCC 631**. In the cited Judgment it is held that *“large- scale irregularities including those which have effect of denying equal access to similarly circumstanced candidates are suggestive of malaise eroding credibility of process -- However, where it is possible to segregate persons who have indulged in malpractices, selection of untainted candidates is permissible since to treat innocents and wrongdoers equally by subjecting former to cancellation of selection process would be contrary to Art. 14 of the Constitution since unequals then would be treated equally -----”*

19. In the present O.As., there is no any allegation of any malpractice etc. The allegations are in respect of the marks given in the oral interview. It appears from the allegations made by the unsuccessful candidates that they have secured more marks in the written examination, but they have been given less marks in the oral interview. There is no allegation of any malpractice etc.

20. It is a matter of common sense that a candidate who secured more marks in the written examination, may not perform well in the personal interview. The personal interview is to test the general knowledge etc. and as to whether he is suitable for the post. In such circumstances, if the brilliant candidates who secured more marks in the written examination, may secure less mark in the personal interview, on that ground it cannot be said that the Committee Members intentionally given less marks to the meritorious candidates in the interview. The purpose of personal interview is to test the general knowledge and the work capacity of the candidate for the post of which he is to be appointed and therefore the Committee Members used to ask such relevant questions to the candidates and accordingly used to give the marks.

21. In the present O.As., none of the Committee Members were having any written marks of the candidates. They were not known about the written marks of the candidates, who appeared in the personal interview. Therefore, allegation that the candidates who secured more marks in the written examination, were given less marks in the personal interview/ examination is without any substance.

22. There are various Judgments of the Hon'ble Supreme Court that the unsuccessful candidates who appeared in the written and oral examinations and when they found unsuccessful cannot say

that the process of examination was not legal and proper. On this point, the learned counsel for applicants Shri H.S. Chitale in O.A.No.738/2023 has pointed out the Judgment of the Hon'ble Supreme Court in the case of **Madan Lal and others Vs. State of Jammu & Kashmir**, in Writ Petition (Civil) No.546/1994, dated 6/2/1995. The Hon'ble Supreme Court in para-17 has held as under—

“17. In the light of what is stated above while dealing with contention No. 1, this contention also must fail. The petitioners subjectively feel that as they had fared better in the written test and had got more marks therein as compared to concerned selected respondents, they should have been given more marks also at the oral interview. But that is in the realm of assessment of relative merits of concerned candidates by the expert committee before whom these candidates appeared for the viva voce test. Merely on the basis of petitioners' apprehension or suspicion that they were deliberately given less marks at the oral interview as compared to the rival candidates, it cannot be said that the process of assessment was vitiated. This contention is in the realm of mere suspicion having no factual basis. It has to be kept in view that there is not even a whisper in the petitioner about any personal bias of the members of the interview committee against the petitioners. They have also not alleged any mala fides on the part of the interview committee in this connection. Consequently, the attack on assessment of the merits of the petitioners cannot be countenanced. It remains in the exclusive domain of the expert committee to decide whether more marks should be assigned to the petitioners or to the concerned respondents. It cannot be the subject-matter of an attack before us as we are not sitting as a court of appeal

over the assessment made by the committee so far as the candidates interviewed by them are concerned. In the light of the affidavit in reply filed by Dr. Girija Dhar to which we have made reference earlier, it cannot be said that the Expert Committee had given a deliberate unfavourable treatment to the petitioners, Consequently, this contention also is found to be devoid of any merit and is rejected.”

23. From the documents filed on record, it appears that the Appointing Authority / Committee Members have followed the rules and regulations. There is nothing on record to show that there was any procedure established for the oral interview by any of the law / rules. It is for the Committee Members to decide the procedure. They have interviewed the candidates who succeeded in the written examination. All the Committee Members signed on the mark sheet of oral interview. Nothing is on record to show that there was any malpractice etc. on the part of the Appointing Authority / any of the Committee Member. Hence, the suspicion raised by the Additional Collector is without any substance. On the basis of the suspicious report, the Government of Maharashtra has directed the Collector, Bhandara to quash the whole recruitment process and directed to start new recruitment process appears to be illegal. It was for the authority to investigate as to whether really there was any malpractice etc. on the part of the Appointing Authority / Committee Members. All the applicants were appointed, but because of the order of the

Government, they were terminated as per the Section 9 (e) of the Maharashtra Village Police Act, 1967. The termination of all the applicants under Section 9 (e) of the Maharashtra Village Police Act, 1967 itself is illegal, because, they have not committed any misconduct. The Section 9 of the Maharashtra Village Police Act, 1967 is reproduced below –

“(9) Any Police-patil or member of a village establishment liable to be called on or for the performance of Police duties, who shall be careless, or negligent in the discharge of his duties or guilty of any misconduct shall be liable to the following penalties, namely:-

(a) censure;

(b) recovery from his remuneration of the whole or part of any pecuniary loss caused to Government;

(c) fine, not exceeding his remuneration for a month;

(d) suspension, for a period not exceeding one year;

(e) removal from service, which shall not disqualify from future employment under Government;

(f) dismissal from service which shall ordinarily disqualify from future employment under Government.

Any of the penalties, mentioned in clauses (a) to (d) may be imposed by any Executive Magistrate not below the rank of Taluka Magistrate, and the penalties mentioned in clauses (e) and (f) may be imposed by any Executive Magistrate not below the rank of Sub-Divisional Magistrate who is competent to make the appointment of the Police-patil.”

24. From the plain reading of the Section 9 of the Maharashtra Village Police Act, 1967, it appears that it is in respect of misconduct by the employee / Police Patil. In such circumstances, if there was any misconduct, then inquiry etc. is required. There is no any misconduct on the part of any of the applicants and therefore terminating all the applicants under Section 9 (e) of the Maharashtra Village Police Act, 1967, is illegal.

25. From the record, it appears that all the applicants have secured cut off marks / more marks in the written examination. They have also performed well in the personal interview and therefore they were selected / appointed by the Appointing Authority. There is nothing on record to show that any of the applicants were appointed illegally. Nothing is on record to show that they were intentionally given more marks in the oral interview. Nothing is on record to show that all the applicants have committed any mischief or malpractice in the examination. There is nothing on record to show that the Appointing Authority / committee members of the selection body have committed any malpractice. Hence, the impugned orders issued by respondent no.1 and 3 are liable to be quashed and set aside. Therefore, following order is passed –

ORDER

(i) Both the O.As. are allowed.

(ii) The impugned order passed by respondent no.1 dated 30/06/2023 is hereby quashed and set aside.

(iii) The termination orders issued by respondent no.3 to all the applicants dated 04/07/2023 are hereby quashed and set aside.

(iv) The respondent no.3 is directed to reinstate all the applicants within a period of one month from the date of receipt of this order.

(v) No order as to costs.

Dated :- 05/10/2023.

**(Justice M.G. Giratkar)
Vice Chairman.**

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 05/10/2023.*