

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NOS.1069 TO 1974 OF 2016

DISTRICT : NASHIK

ORIGINAL APPLICATION NO.1069 OF 2016

Pratibha Kiran Sahane.)
Occu.: Nil, R/o. At Post : Nalwadi,)
Taluka Sinnar, District : Nasik.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through the Secretary,)
Home Department, Mantralaya,)
Mumbai - 400 032.)
2. District Collector, Nashik.)
3. Sub-Divisional Magistrate,)
Niphad Sub-Division, Nashik.)...**Respondents**

WITH

ORIGINAL APPLICATION NO.1070 OF 2016

Shantaram S. Kokate.



Occu.: Nil, R/o. At Post Shrirampur,)
 Taluka Sinnar, District : Nasik.)...**Applicant**

Versus

1. The State of Maharashtra & 2 Ors.)...**Respondents**

WITH

ORIGINAL APPLICATION NO.1071 OF 2016

Kailas Nivrutti Ghule.)
 Occu.: Nil, R/o. At Post Eklahare,)
 Taluka Sinnar, District : Nasik.)...**Applicant**

Versus

1. The State of Maharashtra & 2 Ors.)...**Respondents**

WITH

ORIGINAL APPLICATION NO.1072 OF 2016

Ashok Dhondiba Dhonnar.)
 Occu.: Nil, R/o. At Post Hiware,)
 Taluka Sinnar, District : Nasik.)...**Applicant**

Versus

1. The State of Maharashtra.)



- Through the Secretary,)
 Home Department, Mantralaya,)
 Mumbai - 400 032.)
2. District Collector, Nashik.)
3. Sub-Divisional Magistrate,)
 Niphad Sub-Division, Nashik.)
4. Keshav Rambhau Binnar.)
 Occu.: Nil, R/o. Hiware, Tal. Sinnar,)
 District Nashik.)...**Respondents**

WITH

ORIGINAL APPLICATION NO.1073 OF 2016

- Dnyaneshwar Sukdev Sabale.)
 Occu.: Nil, R/o. At Post Dapur,)
 Taluka Sinnar, District : Nasik.)...**Applicant**

Versus

1. The State of Maharashtra.)
 Through the Secretary,)
 Home Department, Mantralaya,)
 Mumbai - 400 032.)
2. District Collector, Nashik.)
3. Sub-Divisional Magistrate,)
 Niphad Sub-Division, Nashik.)
4. Navnath Subhash Bodake.)
 Occu.: Nil, R/o. Dapur, Tal. Sinnar,)
 District Nashik.)...**Respondents**

WITH
ORIGINAL APPLICATION NO.1074 OF 2016

Yogeshwar Somnath Kedar.)
Occu.: Nil, R/o. At Post Kedarpur,)
Taluka Sinnar, District : Nasik.)...**Applicant**

Versus

1. The State of Maharashtra & 2 Ors.)...**Respondents**

Mr. P.S. Pathak, Advocate for Applicants.

Mr. N.K. Rajpurohit, Presenting Officer for Respondents 1 to 3 in OAs 1069, 1070, 1071 & 1074/2016.

Mr. K.S. Tambe, Advocate for Respondent No.4 in O.A.1072 and 1073/2016.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 11.08.2017

JUDGMENT

1. This fasciculus of six Original Applications (OAs) relating to the appointment of the Police Patils of six different villages in Nashik District admit to their disposal by this common Judgment in view of the identity of the facts.



2. The Applicants claim to have been selected as Police Patils of the various Villages in Nashik District as a result of the response that they made to an advertisement which, in Marathi, is commonly called 'Jahirnama'. However, certain unsuccessful candidates raised objections and the Collector, Nashik initially by a communication of 021.6.2016 to the 3rd Respondent – Sub Divisional Magistrate, Niphad who was the appointing authority in accordance with the Maharashtra Village Police Act, 1967 directed a fresh in depth enquiry into the complaints made against the said selection. The 3rd Respondent vide the communication of 27.6.2016 to each one of the Applicants invited them for some kind of a re-interview. It is a common ground, however, that in **OA 655/2016 and 5 other OAs (Shri D.S. Sable Vs. The State of Maharashtra and others)**, a statement was made that the last mentioned notice was withdrawn. Therefore, one aspect of the prayer clause in this OA has worked itself out and that controversy is no more at large.

3. In the meanwhile, the Committee under the Chairmanship of the 3rd Respondent in a meeting held on 14.7.2016 reconsidered the matter and found the selection of all the Applicants to be proper and not liable to be questioned. However, in the concluding Paragraph, the



following was observed by the said Committee of 5 Members under the Chairmanship of the 3rd Respondent and I reproduce the same in Marathi.

“मात्र तक्रारदार यांनी गुणावदान तक्त्यातील तफावतीवरच भर देवून तक्रारी केलेल्या आहेत म्हणजेच त्यांनी मुलाखतीच्या बाबतीत समितीवर अविश्वास दाखवून संशय व्यक्त केलेला आहे. अशा परिस्थितीमध्ये सदर समितीसमोरच फेर मुलाखती घेणे हे योग्य होणार नाही. तसेच फेरतपासणीमधील निष्कर्ष हे तक्रारदार यांना मान्य होतीलच असे नाही व त्यामुळे इकडील समितीबाबत अथवा समितीच्या अध्यक्षबाबत मुलाखतीनंतर आजपावेतो होत असलेले आरोप अथवा तक्रारी याची मालीका फेरतपासणी नंतरही कायम राहण्याची शक्यता नाकारता येत नाही. या करीता मा. जिल्हादंडाधिकारी यांना सविनय कळविण्यात यावे की, प्रस्तुतच्या ६ गांवासाठी फेरमुलाखती घेण्यात याव्यात परंतु ह्या फेरमुलाखती अन्य समितीसमोर घेण्यात याव्यात मात्र मुलाखतीसाठी ज्या निकषांचा गुणावदान तक्ता इकडील समितीने निश्चित केला आहे तो गुणावदान तक्ता हा आधार धरून सदरच्या मुलाखती व्हाव्यात कारण अन्य समितीने जर सदर ६ गांवासाठी मुलाखतीचे निकष बदलले तर त्या व्यतिरिक्त उपविभागातील निफाड व सिन्नर या तालुक्यात पुर्वनियुक्त झालेले सर्व उमेदवारांचे बाबतीत देखील तफावत निर्माण होवून कायदेशीर अडचणी उद्भवू शकतील.

तरी वरील प्रमाणे निर्णय घेण्यात येवून फेरमुलाखती अन्य समितीसमोर घेणेबाबत मा. जिल्हादंडाधिकारी सागे नाशिक यांना समितीच्या अध्यक्षांच्या स्वाक्षरीने लेखी स्वरूपात सविनय विनंती करण्यात यावी असे ठरले.”


4. The net result of the said report was that, although in the earlier Para thereof, it was held by the Committee that there was nothing objectionable in the selection of these Applicants but it recused itself because



of the possibility of the complaint being made. The event that next took place of some significance was a communication of 7.1.2017 from the Collector, Nashik - the 2nd Respondent hereto, to the 3rd Respondent - S.D.O. It is in Marathi. It mentioned as to how 3rd Respondent was a competent authority under the 1967 Act and as to how, he was directed to take an appropriate decision at his level in accordance with a certain letter which has already figured above. The then SDO, however, had been transferred and his successor had been appointed, and therefore, he was competent to re-interview the candidates for the post of Police patil and he was directed to do the needful.

5. The Applicants are aggrieved by the action of the Collector, Nashik above referred to and for all practical purposes, they seek the relief of being appointed in view of the undisputed fact that earlier they had been cleared as it were. The report of the Committee dated 14th July, 2016 and Collector's letter of 7th January, 2017 just referred to, are being sought to be quashed and set aside. I have already mentioned above as to how the communication of 21st June, 2016 no more survives in contention.

6. I have perused the record and proceedings and heard Mr. P.S. Pathak, the learned Advocate for the



Applicant, Mr. N.K. Rajpurohit, the learned Chief Presenting Officer (CPO) for Respondent Nos.1, 2 and 3 and Mr. K.S. Tambe, the learned Advocate for Respondent No.4 in OA 1072/2016 and OA 1073/2016.

7. As far as the facts are concerned, nothing more needs to be said except for whatever has already been discussed above. Mr. Pathak, the learned Advocate for the Applicants bitterly assailed the 3rd Respondent whose incumbent has now been transferred for having decided in favour of the Applicants and in the same breath having subsequently recused as was done by the said Committee. Now, in my opinion, there is no question of personal agreement or dis-agreement. The matter has to be decided on the basis of the record and documents such as they are. The said report will have to be read as a whole and not piecemeal. I am exercising the jurisdiction of judicial review of administrative action, and therefore, in the ultimate analysis, by the said impugned report, the Committee had in fact recused itself, and therefore, in this forum, I cannot do any addition or subtraction in that order to produce a different result than what has been produced by the 3rd Respondent and other Members of his Committee.

A handwritten signature in black ink, appearing to be 'B. M.', written over a horizontal line.

8. Similarly, the Collector, Nashik by his communication to the SDO of 7.1.2017 has noted *inter-alia* that the earlier incumbent had vacated the Office and his successor had taken over, and therefore, now, he would have to hold re-interviews. If that is the manner in which the jurisdiction has been exercised, I for one presiding over this Tribunal cannot force the recalling of the earlier incumbent to the Office of the 3rd Respondents to do what the Applicants considered needful. I have to examine as to whether the impugned actions and the documents are sustainable in the context of the present facts and in my opinion, they are and they call for no interference.

9. Making it clear that these Applicants will have to be given an opportunity of being re-interviewed, these OAs are dismissed with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
11.08.2017

Mumbai

Date : 11.08.2017

Dictation taken by :

S.K. Wamanse.

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