

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
ORIGINAL APPLICATION NO.277 OF 2019**

**DISTRICT : SATARA**

Mrs. Rohini Sandip Phadtare, )  
Age 30 years, occ. Agriculture, )  
A/P Bhandewadi, Taluka Khatav, District Satara )..Applicant

Versus

1. The State of Maharashtra, )  
Through Principal Secretary, Home Department, )  
Mantralaya, Mumbai )
2. Sub-Divisional Officer, Man-Khatav, )  
At/Post Dahivadi, Taluka Man, District Satara )
3. Mrs. Sangita Vijay Phadtare, )  
Occ. Service, )  
A/P Bhandewadi, Taluka Khatav, District Satara)..Respondents

Shri P.P. Deokar – Advocate for the Applicant

Shri A.J. Chougule – Presenting Officer for Respondents No.1 & 2  
Respondent No.3 and his Counsel are absent for hearing

CORAM : Shri A.P. Kurhekar, Member (J)  
DATE : 17<sup>th</sup> November, 2021

**J U D G M E N T**

1. The applicant is challenging the order dated 28.1.2019 passed by Respondent No.2 – Sub-Divisional Officer (SDO), Taluka Khatav, District Satara appointing respondent no.3 Mrs. Sangita Vijay Phadtare as Police Patil of Village Bhandewadi, Taluka Khatav, District Satara invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. Shortly stated facts giving rise to the OA are as follows:

Respondent no.2-SDO issued notification on 18.11.2017 to fill in the post of Police Patil of Village Bhandewadi amongst other villages and process was initiated. The applicant as well as respondent no.3 applied for the post of Police Patil. They underwent written examination as well as interview. Applicant secured 51 marks in written examination and 13 marks in interview totaling to 64 marks. Whereas respondent no.3 secured 50 marks in written examination and 14 marks in interview totaling to 64 marks. Since both secured equal marks, respondent no.2 SDO by notice dated 18.1.2018 directed them to remain present on 23.1.2018 along with their educational certificates so as to issue necessary orders of appointment of Police Patil in terms of GR dated 24.8.2014 which inter alia provides guidelines where candidates secured equal marks preference has to be given to the candidates who have higher educational qualification. The applicant has raised objection stating that respondent no.3 has passed SSC only and thereafter completed Nursing course namely Auxiliary Nurse Midwifery (ANM) which is not equivalent to HSC and secondly respondent no.3 has not passed Computer course from recognized institute and was not entitled for two marks given to her.

However, respondent no.2 did not pay any heed to the objections and kept the matter in cold storage for one year. Then after one year SDO by order dated 28.1.2019 appointed respondent no.3 on the post of Police Patil of village Bhandewadi without dealing with the objections raised by the applicant. The applicant has therefore challenged the appointment of respondent no.3 inter alia contending that her appointment is bad in law.

4. The applicant contends that after SSC she has passed HSC and thereafter completed computer knowledge course viz. MS-CIT from MKCL whereas respondent no.3 is SSC only and computer knowledge certificate produced before SDO is not from recognized institute. Apart Nursing course certificate is not equivalent to HSC and therefore in fact she is more qualified than respondent no.3 and ought to have been appointed as Police Patil of village Bhandewadi.

5. Respondent no.2-SDO has filed short affidavit in reply stating that Nursing certificate is equivalent to HSC in view of letter dated 1.12.2018 issued by Maharashtra Nursing Council. Affidavit in reply is totally silent as to how computer knowledge certificate was considered valid for giving two marks to her. Apart affidavit in reply is totally silent about the objections raised by the applicant.

6. Respondent no.3 has filed affidavit in reply inter alia contending that ANM course is equivalent to HSC. As regards computer knowledge certificate, respondent no.3 simply denied the contentions raised by the applicant without making any effort to show how computer knowledge certificate produced by her is legal and valid so as to get two marks for the said qualification.

7. Heard Shri P.P. Deokar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents. Ld. Advocate for Respondent no.3 is absent.

8. In view of submissions advanced at Bar, the issue posed for consideration is whether appointment of respondent no.3 to the post of Police Patil dated 28.1.2019 is legal and valid and the answer is in emphatic negative.

9. Indisputably applicant has passed HSC examination with 64.67% marks as seen from page 40 of the paper book. Apart she has passed MS-CIT examination from MKCL which is authorized institute as seen from page 29 of paper book. Whereas respondent no.3 after SSC has completed Nursing Course viz. Auxiliary Nurse Midwifery (ANM) from Maharashtra Nursing Council as seen from page 41 of paper book. So far as computer knowledge certificate is concerned the certificate at page 44 of the paper book is purportedly issued by private institute viz. OHT Computer Hardware Institute, Dahiwadi, District Satara.

10. Admittedly two marks were given in interview to the applicant as respondent no.3 for possessing computer knowledge certificate. Both secured 64 marks and therefore appointment was required to be made in terms of GR dated 22.8.2014 which inter alia provides for appointment to the candidate who is more qualified.

11. In so far as Nursing course is concerned, Ld. advocate for the applicant has pointed out that in terms of GR dated 28.9.2012 some specific courses as enlisted in GR are recognized as equivalent to HSC and Nursing Certificate Course completed by the respondent no.3 does not find place in the said GR. He has further rightly pointed out that Maharashtra State Vocational Education Examination Board also

informed the applicant under RTI that Nursing Certificate course is not equivalent to HSC in view of GR dated 28.9.2012.

12. Whereas Ld. PO submits that SDO has accepted letter dated 1.12.2018 (page 99 of paper book) whereby he was informed by Maharashtra Nursing Council that ANM course is equivalent to HSC.

13. In so far as the certificate issued by Maharashtra Nursing Council is concerned, Government of Maharashtra by GR dated 28.9.2012 issued by Higher Technical Education Board has clarified that certain courses as enlisted in annexure are only equivalent to HSC. By the said GR 211 courses were held equivalent to HSC. However, notably course of ANM does not find place in the list of 211 courses. It is thus apparent that the said course is not equivalent to HSC. This position is reaffirmed in view of the information obtained by the applicant under RTI from Maharashtra State Vocational Education Board which in no uncertain words clarified that said course cannot be treated equivalent to HSC and it does not fall within the course approved by the Government as equivalent to HSC in terms of GR dated 28.9.2012. This being the position, no weight can be given to the letter dated 1.12.2018 issued by Maharashtra Nursing Council that the said course is equivalent to HSC. Needless to mention it was for the Government to decide the equivalency of any other course equivalent to HSC and by GR dated 28.9.2012 some specific courses were approved and recognized as equivalent to HSC which does not include ANM course. It is thus explicit that respondent no.3 was not possessing qualification higher than the applicant.

14. Now turning to the aspect of computer knowledge course the certificate produced by the applicant is through private institute viz. OHT Computer Hardware Institute, Dahiwadi, District Satara which is not recognized institute. Indeed Government by circular dated 6.11.2020

(page 121 of Paper book) has clarified that certificate issued by the institute recognized by the State of Maharashtra, Higher Technical Board has to be only considered as a valid computer knowledge certificate course for giving additional marks in the process for appointment of Police Patil. Suffice to say computer knowledge certificate produced by respondent no.3 should not have been accepted for giving her two marks. Thus if those two marks given to the respondent no.3 is reduced from her total marks then her total marks would come down to (64-2) 62. As such she would get total marks 62 only. Whereas applicant got total 64 marks. This being the position, respondent no.3 was not at all meritorious candidate for appointment to the post of Police Patil.

15. It is shocking to note that despite objections raised by the applicant, Respondent no.2-SDO did not pay any heed to the material objections raised by the applicant and without considering the same, issued appointment order of respondent no.3 after two years from the initiation of the process for appointment of Police Patil which shows his total casual and cavalier approach. There is no application of mind. Impugned order is thus arbitrary and bad in law. Respondent no.2 thus committed serious illegality while appointing respondent no.3 on the post of Police Patil of Village Bhandewadi.

16. In view of the aforesaid discussion, exfacie appointment of respondent no.3 on the post of Police Patil of Village Bhandewadi is totally bad in law and liable to be quashed. Hence, I pass the following order.

### **ORDER**

- 1) The Original Application is allowed.

- 2) The order dated 28.1.2019 issued by Respondent No.2-SDO appointing Respondent No.3 as Police Patil of Village Bhandewadi is quashed and set aside.
- 3) Respondent No.2-SDO is directed to appoint the applicant on the post of Police Patil of Village Bhandewadi, District Satara and to issue necessary orders within one month from today.
- 4) No orders as to cost.

Sd/-

**(A.P. Kurhekar)**  
**Member (J)**  
**17.11.2021**

Dictation taken by: S.G. Jawalkar.