

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, BOMBAY
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO.277/2016.

DIST. AURANGABAD.

1. Bhaidas s/o Vitthal Pawar,
Age 31 years, Occupation : Agriculture,
Residing at Bildari, Taluka Kannad,
District Aurangabad.
2. Bharat s/o Sardar Rathod,
Age 33 years, Occupation Agriculture,
Residing at above address.

..... APPLICANTS.

VERSUS.

1. The State of Maharashtra,
Through the Secretary to therefore
Government, Home Department,
Mantralaya, Mumbai.
2. The Sub Divisional Magistrate,
Kannad – Khultabad, having its
office located at Kannad.
3. The Committee for Recruitment to
the posts of Police Patil – 2015, having
its functioning at the office of the
Sub Divisional Magistrate, Kannad -
Khultabad Sub Division,
Taluka Kannad, District Aurangabad.
4. Indal s/o Shankar Rathod, age 37 years.
Occupation Agriculture and Business,
residing presently at Bhildari, Taluka
Kannad, District Aurangabad.

..... RESPONDENTS.

APPEARANCE:Shri Hemant Surve, learned Advocate for the applicants.

: Shri SK Shirse, learned Presenting Officer for respondents no.1 to 3 and

: Shri VB Wagh, learned Advocate for the Respondent No.4.

CORAM: : Shri J. D. Kulkarni, Member (J)

DATE : : 11.11.2016.

JUDGMENT.

(Delivered on 11th Nov. 2016)

1. Heard Shri Hemant Surve, the learned Advocate for the applicants, Shri SK Shirse, the learned Presenting Officer for the respondents no. 1 to 3 and Shri VB Wagh, learned Advocate for the Respondent no.4.

2. The applicants in this O.A. have challenged the recruitment process of Police Patil of 2015 undertaken by Sub Divisional Officer, Kannad – Khultabad as regards appointment of the Police Patil for village Bildari Taluka Kannad and requested that the said process shall be quashed and set aside.

3. The applicants and respondent no.4 Indal Shankar Rathod applied for the post of Police Patil of village Bildari in view of the advertisement No.01/2016. The examination was held on 28.2.2016. Applicants and respondent no.4 were called for oral interview and the list of eligible candidates for interview was published on 28.2.2016. It is stated that as per rules the marks obtained by each candidate should have been published, but no such marks were published. In the oral interview the respondent no.4 was given preferential treatment and was selected.

4. On 2.3.2016 the applicants filed representation making clear that they could not get information about the marks obtained by the candidates. On 4.3.2016 again a complaint was filed to the Collector, Aurangabad as regards irregularities in the selection process, however, no cognizance was taken.

5. The learned Advocate for the applicants submits that the recruitment of Police Patil was undertaken on different places in the District and in all such process, except in respect of recruitment of Police Patil at village Bildari, the marks obtained in the written

examination was not displayed and this is in contravention of the procedure as was required to be followed.

6. The learned Advocate for the applicants also invited my attention to one Govt. Resolution dated 5.6.2014 which gives guidelines for recruitment and as per clause no.2 of the said G.R. it has been specifically stated that no oral interview shall be taken for the post of Group "C" and Group "B" (Non Gazetted). It is therefore, stated that the oral interview itself was illegal.

7. The learned Presenting Officer however, submits that the guidelines in G.R. dated 5.6.2014 are not applicable to the present recruitment and the said guidelines are not mandatory. The learned P.O. also invited my attention to the advertisement No.01/2016, which is at paper book page nos. 14 to 23 (both inclusive). In the said advertisement it has been clearly stated that, the written examination shall be of 80 marks and oral interview shall be of 20 marks. It is further stated that, those candidates who got minimum 40% marks in written examination i.e. 36 out of 80 marks will only be called for interview. The learned P.O. further states that, the applicants have participated in the oral interview and therefore, they can not now state

that the oral interview was illegal. I agree with the submission of the learned P.O. Merely because the applicants have been declared unsuccessful, they can not now take objection for the process of oral interview in which they also participated.

8. So far as guidelines issued by the Govt. vide G.R. dated 5.6.2014 are concerned, it seems that the said guidelines are in respect of particular examination to be carried out by the nominated Board and therefore, on these grounds the said G.R. can not be made applicable to the present recruitment as candidates have applied as per Advertisement No.01/2016 in which there is specific mention regarding written examination as well as oral examination and the applicants have, as already stated, participated in the oral interview.

9. The learned Presenting Officer also invited my attention to the reply affidavit filed by respondents no.2 & 3. In para no.5 of the said reply the respondents have stated that though the marks obtained in the written examination were not mentioned in the list, the copy of which is at paper book page no.33, the list was published on the website. Even otherwise non mentioning of written marks will not be

sufficient to scrap the entire process. Unless it is shown that there are mala fides on the part of respondents.

10. The respondents have stated in their affidavit in reply that the Selection Committee is of Members such as S.D.O., Tahsildar, Sub Divisional Police Officer Kannad and Tahsildar Khultabad and all Committee Members were present when the oral interview was taken. It is stated that, the applicant no.1 secured 67 marks and the applicant no.2 secured 65 marks, whereas the Respondent no.4 secured 68 marks and he being the candidate securing highest marks was selected and has already been appointed as Police Patil of village Bildari Tq. Kannad Dist. Aurangabad. Along with the reply affidavit, the Respondents have also filed list showing marks in the written examination as well as oral interview. In the absence of any mala fides on the part of Members of Selection Committee the marks given in the oral interview can not be doubted.

11. The Respondent no.4 has also filed affidavit in reply and submitted that he got highest marks i.e. 68 marks, whereas applicants no.1 and 2 got 67 and 65 marks respectively.

12. The learned Advocate for the applicants submits that, the respondent no.4 can not be appointed since he is engaged in business. The applicants have filed additional affidavit and stated that, some villagers have made representation against the respondent no.4 stating that the respondent no.4 is involved in at least three local businesses named and styled as under :-

- i) Gaurav DJ,
- ii) Gaurav Kirana, and
- iii) Gaurav Mandap Decorators.

13. It is stated that, the Respondent No.4 is therefore, not qualified for being appointed as Police Patil in view of condition No.6 in the advertisement. As per said condition the applicant shall not be concerned with any political party and he shall not have any permanent business at the place of appointment. Similarly he shall not be engaged full time in any business or service. It is stated that, the Respondent no.4 is dealing in not less than 3 business as already stated.

14. It is material to note that, the aforesaid objection regarding so-called business of the respondent no.4 is coming first time by way of additional affidavit filed by the applicants on 26.9.2016. Said

objection was never taken by the applicants before the competent authority. The representations filed by applicants at paper book page nos. 45 & 46 dated 2.3.2016 and 4.3.2016 respectively are silent regarding such objection. The allegations against the competent authority are vague and it is merely stated that, there was no transparency and that there was illegality, but no mala fides are alleged.

15. The Respondent no.4 did not get opportunity to answer additional affidavit in reply filed by the applicants alleging that, the Respondent no.4 was involved in number of business. Since the said affidavit has been filed on the day on which the matter was heard finally. The learned Advocate for the Respondent no.4 Shri V.B. Wagh denies that, the Respondent no.4 is involved in any business. As already stated no such allegations are made in the representations filed by the applicants against the appointment of respondent no.4. Some vague complaint has been filed in the name of villagers and the copy of it is placed on record at Annexure A-11 dated 9.5.2016, none of the signatories of this application have filed affidavit before this Tribunal. The said complaint of involvement of Respondent no.4 in the business therefore, seems to be afterthought and can not be given

importance at this juncture. If it is a fact that the Respondent no.4 is really involved in various businesses and therefore, he can not give justice to the post of Police Patil, applicants will be at liberty to file such complaint before competent authority and if the competent authority comes to the conclusion that, the respondent no.4 is involved in such businesses or such businesses are hampering his work of Police Patil, the competent authority may take action.

16. The learned Advocate for the applicants has placed on record xerox copies of the affidavit filed by the Respondent no.4 before Sessions Judge, Aurangabad and also copies of the residential certificate, which are marked at Exh.X, X-1 & X-2 for the purpose of identification. In the said affidavit the Respondent no.4 has stated that, he is not involved in any business. He has also filed certificate to show that, he is resident of Bildari Taluka Kannad.

17. From the discussions in foregoing paragraphs, it will be thus crystal clear that, the appointment of Respondent no.4 as Police Patil is legal and proper and this is nothing on the record to show that, the competent authority was having any malice against the present applicants while selecting the respondent no.4 for the post of Police

Patil. In the result, there is no merit in the O.A. Hence, the following order.

ORDER.

The Original Application is dismissed with no order as to costs.

MEMBER (J)

OA277.2016-ATP