

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 518 OF 2016**

**DISTRICT: JALGAON**

**Shri Bharat Pandurang Patil,**  
Age: 43 years, Occu. : Agriculture,  
R/o : Melsangave, Taluka Muktainagar,  
District-Jalgaon.

.. **APPLICANT**

**V E R S U S**

- 1) **The State of Maharashtra,**  
Through Secretary,  
Home Department,  
Mantralaya, Mumbai -32.
- 2) **District Collector,**  
Jalgaon, District Jalgaon,
- 3) **Sub Divisional Magistrate,**  
Bhusaval Division, Bhusaval.
- 4) **Shri Sanjay Trimbak Patil,**  
Age : 36 years, Occu: Agriculture,  
R/o : Melsangave, Taluka Muktainagar,  
District-Jalgaon.

(Copy to be served on Presenting Officer  
M.A.T. Bench at Aurangabad)

.. **RESPONDENTS**

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**APPEARANCE** : Shri P.P. Kothari, learned Advocate holding for  
Shri S.S. Bora, learned Advocate for the  
Applicant.

: Shri M.P. Gude, learned Presenting Officer for  
the Respondent nos. 1 to 3.

: Shri Girish Nagori, learned Advocate for  
respondent no. 4.

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**CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)**  
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**ORDER****(Delivered on 28<sup>th</sup> this day of April, 2017.)**

1. The applicant has challenged the order dated 16.06.2016 passed by the Sub Divisional Magistrate, Bhusaval rejecting his complaint challenging the selection of respondent no. 4 for the post of Police Patil of village Melsangave, Taluka Muktainagar, District Jalgaon and sought declaration that the respondent no. 4 may be declared as ineligible candidate for the post of Police Patil of village Melsangave, Taluka Muktainagar, District Jalgaon and prayed to restrain respondent nos. 1 to 3 from issuing appointment order in favour of respondent no. 4 for the post of Police Patil of village Melsangave, Taluka Muktainagar, District Jalgaon.

2. The Sub Divisional Magistrate, Bhusaval i.e. respondent no. 3 had issued notification in the month of November, 2015 more particularly on 2.11.2015 inviting applications from the interested and eligible candidates for the appointment on the post of Police Patil of village Melsangave, Taluka Muktainagar, District Jalgaon. Terms and conditions were mentioned therein and accordingly, the applicant as well as respondent no. 4 and other candidates had filed applications. It is one of the condition as per the advertisement that the candidate

applying for the post has to submit sworn affidavit on stamp paper of Rs. 100/- stating that he is not affiliated to any political party and he must be resident of said village. It is contention of the applicant that he himself and respondent no. 4 appeared for written examination as well as oral examination conducted by respondent no. 3. The respondent no. 3 declared the result of examination on 6.4.2016 and thereby declared respondent no. 4 as selected candidate and the name of the applicant has been mentioned in the interim waiting list. The applicant thereafter, made enquiry with the concerned authority and at that time, it is disclosed to him that the respondent no.4 had not filed sworn affidavit as required before his selection. Not only this, but it was disclosed to the applicant that the respondent no. 4 was affiliated with the political party BJP and he was active member of it and his name is appearing in the web-site of the BJP as a Member. Therefore, he was not eligible to be appointed as Police Patil of village Melsangave, Taluka Muktainagar, District Jalgaon.

3. The applicant immediately approached to the Hon'ble High Court, Bench at Aurangabad by filing W.P. No. 4429/2016 and challenged the result dated 6.4.2016 and sought injunction against the respondent State authorities restraining them from issuing appointment order of respondent no. 4. The said W.P. was

heard and decided by the Hon'ble High Court on 16.04.2016. The Hon'ble High Court pleased to grant interim relief in favour of the applicant thereby restrained the respondent State authorities from issuing any appointment order in favour of respondent no. 4. The Hon'ble High Court further directed the Sub Divisional Magistrate, Bhusaval to decide the complaint filed by the applicant raising several objections within stipulated time. Thereafter, the Sub Divisional Magistrate, Bhusaval had called upon him to appear before him and accordingly, he appeared before the said authority and pointed out evidence produced by him in support of the allegations made by him. The Sub Divisional Magistrate, Bhusaval by its order dated 16.06.2016 rejected the complaint of the applicant on the ground that the respondent no. 4 resigned from membership of BJP on 15.11.2015 and he was not active member of the political party at the time of his selection. The applicant has challenged the said order by filing the present Original Application.

4. The respondent no. 3 has filed an affidavit-in-reply and contended that the recruitment process for the post of Police Patil of village Melsangave, Taluka Muktainagar, District Jalgaon has been conducted as per the terms and conditions mentioned in the advertisement as well as, as per the Rules of recruitment.

They declared select list after conducting written examination and oral interview and the name of respondent no. 4 had been placed at Sr. No. 1 on the said list. He has also declared wait list for the post of Police Patil of village Melsangave, Taluka Muktainagar, District Jalgaon wherein the name of the applicant has been mentioned at Sr. No. 1. He has submitted that there is no illegality in the recruitment process conducted by him. It is further contended by him that as per the direction of the Hon'ble High Court he considered the complaint filed by the applicant. He heard both parties and thereafter, rejected complaint on the ground that respondent no. 4 has filed affidavit as required in view of the terms and conditions of the advertisement stating that he resigned from the membership of BJP on 15.11.2015 and he was not affiliated to any political party at the time of recruitment process. Therefore, he rejected the complaint application of the applicant on 16.06.2016. Therefore, he prayed to dismiss the application.

5. The respondent no. 1, 2 and 4 have not filed their affidavit in reply.

6. The Learned Advocate for the applicant has submitted that the advertisement has been issued on 2.11.2015 inviting the applications for the post of Police Patil of village Melsangave,

Taluka Muktainagar, District Jalgaon, which is at paper book page nos. 14 to 22 (both inclusive)(Annexure A-1). It was one of the conditions that the candidate shall be resident of same village and he shall not be affiliated to any political party. It is one of the conditions that he shall produce an affidavit on stamp paper of Rs. 100/- before his appointment. The learned Advocate for the applicant has submitted that the applicant, respondent no. 4 and others duly filed applications for the post of Police Patil of village Melsangave, Taluka Muktainagar, District Jalgaon. They appeared for written examination and thereafter, they appeared for oral interview. He has submitted that as per the conditions mentioned in the advertisement, which is at page nos. 17 to 22, the respondent no. 4 has not filed affidavit before the Sub Divisional Magistrate, Bhusaval at the proper stage. Not only this, but the respondent no. 4 was active member of BJP at the time of filing the application. Therefore, his candidature ought to have been rejected by respondent no. 3. He has submitted that the Sub Divisional Magistrate, Bhusaval has not considered the said documents and facts and illegally allowed respondent no. 4 to participate in the recruitment process. He has further submitted that the Sub Divisional Magistrate, Bhusaval had not considered his application as well as documents on record while rejecting his complaint application dated 16.04.2016. He has submitted that

the applicant has produced the copy of the web-site of BJP wherefrom it is crystal clear that the mobile number i.e. 9673886046 of the respondent no. 4 has been registered with the web-site of BJP and membership no. 1091499339 has been given to the respondent no. 4. He has submitted that the said mobile number has been mentioned in the online application form which is at page no. 25 by the respondent no. 4. He has submitted that the said documents at page nos. 29 and 30 are sufficient to show that on the date of filing of the application form, the respondent no. 4 was affiliated with the BJP and he was active member of BJP and therefore, respondent no. 4 was not eligible to be considered for the post of Police Patil of village Melsangave, Taluka Muktainagar, District Jalgaon. He has submitted that the Sub Divisional Officer, Bhusaval i.e. respondent no. 3 ought to have allowed his complaint dated 16.04.2016 by considering the said documents. But the Sub Divisional Magistrate, Bhusaval has wrongly rejected his complaint by order dated 16.06.2016 on the ground that the Rules of Maharashtra Civil Services Rules are not attracted in this case.

7. The learned Advocate for the applicant has further submitted that as per the terms and conditions in the advertisement the respondent no. 4 had to file sworn affidavit

before appearing for the examination but he had not filed it in time and therefore, he was not eligible to be considered for the post of Police Patil of village Melsangave, Taluka Muktainagar, District Jalgaon.

8. Learned Presenting Officer as well as learned Advocate for respondent no. 4 have submitted that the respondent no. 4 was not member of any political party when he filed online application which is at page no. 25 of the paper book on 16.11.2015. They have submitted that the respondent no. 4 was affiliated to BJP prior to that, but he resigned the membership of BJP on 15.11.2015 and the resignation has been accepted by the office bearers of the BJP. Certificate dated 8.5.2016 of BJP Taluka President supports the said fact. They have submitted that as the respondent no. 4 was not active member of any political party, he cannot be said to be in illegible candidate for the post of Police Patil of village Melsangave, Taluka Muktainagar, District Jalgaon. The respondent no. 4 submitted that after publication of selection list, he was asked to file affidavit and accordingly, he filed sworn affidavit on the required stamp paper of Rs. 100/- on 29.04.2016 in view of the terms and conditions of the advertisement dated 2.11.2015. Therefore, it cannot be said that the respondent no. 4 has not complied the requirements of the



conditions mentioned in the advertisement dated 02.11.2015. They have submitted that the respondent no. 3 made enquiry in the complaint application dated 16.04.2016 filed by the applicant as directed by the Hon'ble High Court in the W.P. No. 4429/2016. He had given opportunities to both the parties and after hearing he decided the complaint application dated 16.04.2016 on 16.06.2016. He has recorded reasons while rejecting the application of the applicant and the said facts are evident from the order of Sub Divisional Officer, Bhusaval dated 16.06.2016 which is at page nos. 37 to 39 (both inclusive). They have submitted that the order of the Sub Divisional Officer, Bhusaval is legal, proper and correct and therefore, no interference is called for in the said order.

9. I have perused the advertisement dated 2.11.2015 (page nos. 14 to 22 of the paper book), application submitted by the respondent no. 4 on 16.11.2016 (page nos. 25 to 25 of the paper book), copies of web-site of the BJP produced by the applicant which is at page nos. 29 and 30 of the paper book, interim select list and interim wait list dated 06.04.2016 which is at page no. 31 of the paper book, copy of complaint application dated 16.04.2016 which is at page no. 32 of the paper book and the order passed by the Sub Divisional Magistrate, Bhusawal on

16.06.2016 which is at paper book page nos. 37 to 39 (both inclusive). On going through the said documents, it is crystal clear that on conducting written examination and oral interview, concerned authority has to call the selected candidates to produce the documents for verification and also to file an affidavit. Accordingly, the respondent no. 4 has filed affidavit dated 29.04.2016. Not only this, but the original documents have also been produced by him before the concerned authorities accordingly. Therefore, there is no illegality on the part of respondent no. 3 in the procedure followed by him in that regard. Therefore, I do not find substance in the contention of the applicant in that regard.

10. As regards the objection of the applicant that the respondent no. 4 was affiliated to BJP at the time of recruitment process, it is material to note that the respondent no. 4 has filed online application which is at paper book page nos. 25 to 27 (both inclusive) on 16.11.2015. He had tendered his resignation of the BJP prior to that i.e. on 15.11.2016. He was not affiliated to any political party and he was also not active Member of any political party at the time of recruitment process. This fact has been certified by the Taluka President of BJP by issuing certificate dated 8.5.2016. Therefore, it cannot be said that on the date of

filing the application the respondent no. 4 was affiliated to any political party. The documents at page nos. 29 and 30 of paper book produced by the applicant are not authentic documents issued by the political party. Merely because mobile number mentioned by the applicant in his application at page no. 25 is the same number which has been mentioned in website of BJP is not sufficient to come to the conclusion that the respondent no. 4 is affiliated to political party and he was active member of political party at the relevant time. Therefore, the said documents cannot be relied on. The applicant has not produced concrete evidence to show that the respondent no. 4 was active Member of political party at the time of filing his application and thereafter also. Therefore, the Sub Divisional Officer, Bhusaval has rightly rejected the complaint application dated 16.04.2016 filed by the applicant. The Sub Divisional Officer, Bhusaval by passing impugned order dated 16.6.2016 which is at page nos. 37 to 39 (both inclusive) of paper book has rightly rejected the application of the applicant. Reasons recorded by the Sub Divisional Officer, Bhusaval are proper, correct and legal. There is no illegality in the order under challenge. Therefore, no interference is called for in the order under challenge. There is no substance in the contention raised by the applicant. Consequently the present O.A. deserves to be dismissed.

11. In view of these facts, the Original Application stands dismissed with no order as to costs.

**(B.P. PATIL)**  
**MEMBER (J)**

**KPB/S.B. O.A. No. 518 of 2016 BPP 2017 Police Patil**