

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 616 OF 2016
(Subject – Police Patil)**

DISTRICT: JALGAON

Smt. Sonali Anil Chaudhari,
Age: 28 years, Occu. : Household,
R/o Pimpri (Nandu), Tq. Muktainagar,
Dist. Jalgaon.

.. **APPLICANT**

V E R S U S

- 1) **The State of Maharashtra,**
Through its Principal Secretary,
Home Department,
Mantralaya, Mumbai- 32.
- 2) **The District Magistrate (Home Department),**
Jalgaon, Dist. Jalgaon.
- 3) **The Sub-Divisional Magistrate,**
Bhusawal Division, Bhusawal,
Tq. Bhusawal, Dist. Jalgaon.
- 4) **Smt. Varsha Arvind Mahajan,**
Age- 31 Years, Occ- Household,
R/o Pimpri (Nandu),
Tq. Muktainagar, Dist. Jalgaon.

.. **RESPONDENTS**

APPEARANCE : Shri Vinod P. Patil, learned Advocate for the
Applicant.

: Shri I.S. Thorat, learned Presenting Officer for
the Respondent nos. 1 to 3.

: Shri Vaibhav R. Patil, learned Advocate for
respondent no. 4, **absent.**

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

ORDER**(Delivered on this 31st day of August, 2017.)**

1. The applicant has challenged the selection and appointment of respondent No. 4 as Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon and prayed to quash the selection dated 6.4.2016 issued by the respondent No. 3 and to direct the respondents to appoint her in place of respondent No. 4 by filing the present Original Application.

2. The applicant is resident of Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon. The respondent No. 3 has published advertisement in newspapers daily 'Lokmat' and 'Divya Marathi' inviting applications from the eligible candidates for the post of Police Patil of several villages situated within Bhusawal, Bodhavad and Muktainagar Taluka including the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon. The post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon, was reserved for Open Female Category. The applicant and respondent No. 4 submitted their applications online. They appeared for written examination. The applicant scored 47 marks in written examination, while the respondent No. 4 scored 42 marks in the written examination. They were called for oral interview. Their oral interviews were conducted by the committee

headed by the respondent No. 3. In the oral interview, the applicant scored 10 marks, while the respondent No. 4 scored 16 marks. As per final result, the applicant scored 57 marks in aggregate, while the respondent No. 4 scored 58 marks in aggregate. On considering their total marks, the respondent No. 3 i.e. the Sub Divisional Magistrate, Bhusawal, Tq. Jalgaon, has published the list of selected candidate and candidate kept on waiting list. The respondent No. 4 was declared as selected candidate for the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon, while the name of the applicant was kept on waiting list.

3. It is contention of the applicant that it is one of the required eligibility criteria for the post of Police Patil that the candidate shall have pass SSC (10th Std.) examination of Maharashtra State Secondary Education Board and the candidate shall not be affiliated to any political party. It is their contention that the respondent No. 4 has produced the passing certificate regarding Secondary School Examination issued by the Board of Secondary Education, Madhya Pradesh, Bhopal. It is their contention that the respondent No. 4 had not complied with one of the essential requirement to be eligible for appointment for the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar,

Dist. Jalgaon as mentioned in the advertisement. But the respondent No. 3 had not considered the said aspect and he has wrongly declared the respondent No. 4 as selected candidate.

4. It is their contention that the respondent No. 4 is active Member of political party namely Bhartiya Janata Party and her name is entered in the list of Members of B.J.P., Muktainagar. As she was affiliated to political party and was active Member of the political party, she was not eligible for appointment on the post of Police Patil. But the respondent No. 3 had not considered the said aspect.

5. It is her further contention that the respondent No. 4 has shown herself as legal heir of former Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon. She has submitted that Shri Atmaram Madhav Chaudhari, was former Police Patil of village Pimpri (Nandu) and she was daughter-in-law of former Police Patil. It is further contention of the applicant mentioned in the advertisement that as per Clause 21(1), the legal heirs of the Police Patil, means husband, wife and two children and therefore, Respondent No. 4 cannot be considered as legal heir of former Police Patil. The respondents had not considered all these aspects and wrongly made selection of the respondent No. 4 for the post of Police Patil of village Pimpri (Nandu), Tq.

Muktainagar, Dist. Jalgaon. Therefore, she prayed to quash and set aside the selection list dated 6.4.2016, by which the respondent No. 4 was declared as selected candidate for the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon. She prayed to quash the appointment of respondent No. 4 and to declare her as selected candidate and to appoint her on the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon by allowing the present Original Application.

6. The respondent Nos. 2 and 3 have filed their affidavit in reply and resisted the contentions of the applicant. They have admitted the fact that the applicant, respondent No. 4 and others have filed applications online for the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon. The applicant and respondent No. 4 appeared for the written examination on 13.12.2015. The applicant and respondent No. 4 were called for oral interview. On 13.01.2016, they were called before the Tahsildar, Muktainagar for verification of documents. Thereafter, oral interview has been conducted by the committee consisting of Sub Divisional Police Officer Muktainagar, Assistant Commissioner Social Welfare Division Jalgaon, Project Officer Tribal Development Project Yawal, Tahsildar Muktainagar and Sub-Divisional Magistrate, Bhusawal Division, Bhusawal. In the

oral interview, the applicant scored 10 marks, while the respondent No. 4 scored 16 marks. The applicant scored 47 marks in written examination, while the respondent No. 4 scored 42 marks in the written examination. The applicant scored 57 marks in aggregate, while the respondent No. 4 scored 58 marks in aggregate. Since the respondent No. 4 i.e. Smt. Varsha Arvind Mahajan, scored highest marks, she was declared as selected candidate for the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon. They have admitted that the respondent No. 4 filed affidavit on 13.04.2016, before the Tahsildar Muktainagar stating that she was not active Member of any political party. She has also stated on oath that she is a daughter-in-law of former Police Patil Shri Atmaram Madhav Chaudhari. She has also stated that Domicile certificate was issued by the Executive Magistrate Muktainagar, showing that she is resident of Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon.

7. It is their contention that in the advertisement dated 03.11.2015, which is published Daily Lokmat and Divya Marathi newspapers, the eligibility criteria for the post of Police Patil has been mentioned and it has been mentioned that the candidate should pass S.C.C. examination of Maharashtra State Government. It is their contention that the respondent No. 4

produced certificate showing that she passed S.C.C. examination conducted by the Board of Secondary Education, Madhya Pradesh, Bhopal. The respondent No. 3 considered the said certificate and held the respondent No. 4 as eligible for the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon. It is their contention that in view of the G.R. dated 26.08.2010, the eligibility criteria for the post of Police Patil is that the candidate shall pass 10th Std. examination and in the said G.R., nowhere it is mentioned that candidate should pass S.C.C. (10th Std.) examination conducted by the Maharashtra State Secondary Education Board only. It is their contention that the respondent No. 4 has passed 10th Std. (S.S.C.) exam and therefore, she is eligible for the appointment on the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon. There is no illegality in the selection list published by the respondent No. 3 showing the respondent No. 4 as selected candidate and giving her appointment on the post of Police Patil.

8. The respondent No. 4 has filed affidavit in reply and contended that the applicant has misled the Tribunal by mentioning the false facts. It is her contention that the allegations made in the O.A. are baseless. It is her contention that her maternal home is situated at Shahapur, Madhya

Pradesh, which is very close to the State boundary of Maharashtra. She has completed her education of 12th Std. successfully from Shahapur. She has married to Shri Nitin Atmaram Chaudhari and since her marriage, she is residing at Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon and therefore, she is resident of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon, Maharashtra State. It is her contention that she has acquired requisite educational qualification for appointment on the post of Police Patil, as per the advertisement and recruitment Rules and therefore, she has been declared as selected candidate. Accordingly, an appointment letter has been issued to her and she has accepted her appointment. She has submitted that there is no illegality in the select list published by the respondent No. 3 and therefore, she prayed to reject the Original Application.

9. Heard Shri Vinod P. Patil, learned Advocate for the Applicant, Shri I.S. Thorat, learned Presenting Officer for the Respondent nos. 1 to 3. I have perused the application, affidavits in reply and various documents placed on record by the respective parties.

10. Admittedly, the advertisement had been published on 3.11.2015 in newspapers daily 'Lokmat' and 'Divya Marathi' inviting applications from the eligible candidates for the post of

Police Patil of several villages situated within Bhusawal, Bodhavad and Muktainagar Taluka including the village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon. Admittedly, as per the eligibility criteria mentioned in the advertisement the candidate shall have pass SSC (10th Std.) exam of Maharashtra State Secondary Education Board. Admittedly, the applicant and respondent No. 4 applied for the said post. They appeared for the written examination conducted on 13.12.2015. Admittedly, the applicant scored 47 marks in written examination, while the respondent No. 4 scored 42 marks in the written examination. Both were called for oral interview. Admittedly, before oral interview, they were called before the Tahsildar, Muktainagar for verification of documents referred by them in the online application form and accordingly, they produced documents before the Tahsildar, Muktainagar. Admittedly, their oral interviews were conducted on 2.4.2016 by the committee consisting of Sub-Divisional Magistrate, Bhusawal Division, Bhusawal, Sub Divisional Police Officer Muktainagar, Assistant Commissioner Social Welfare Division Jalgaon, Project Officer Tribal Development Project Yawal and Tahsildar Muktainagar, as Members. Committee considered the performance, intelligence, general knowledge of the candidates and allotted marks to them in the oral interview. The applicant scored 10 marks, while the respondent No. 4 scored 16 marks in

the oral interview and thereby the applicant scored 57 marks in aggregate, while the respondent No. 4 scored 58 marks in aggregate. Admittedly, the respondent No. 4 scored highest marks and therefore, she was declared as selected candidate. It is not much disputed that the respondent No. 4 i.e. Shri Varsha Arvind Mahajan was residing at Shahapur, Madhya Pradesh prior to her marriage. She has passed 10th Std. exam (SCC) and 12th Std. exam (H.S.C.) conducted by Board of Secondary Education, Madhya Pradesh, Bhopal. She married to Shri Nitin Atmaram Chaudhary, who is resident of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon and since then, she is residing at Pimpri (Nandu).

11. Learned Advocate for the applicant has submitted that in the advertisement it has been specifically mentioned that the candidates shall have pass S.C.C. (10th Std.) examination of Maharashtra State Secondary Examination Board. He has submitted that the respondent No. 4 has produced certificate issued by the Board of Secondary Education, Madhya Pradesh, Bhopal, showing that she was passed 10th (S.C.C.) examination conducted by it. The respondent No. 4 had not passed 10th (S.S.C.) exam of Maharashtra State Secondary Education Board as mentioned in the advertisement and therefore, she is not

eligible for the post of Police Patil. He has submitted that the respondent No. 3 ought to have considered the said aspect while verifying the documents produced by the respondent No. 4 before calling her for oral interview, but he had not considered the said aspect and wrongly called the respondent No. 4 for oral interview and then declared as selected candidate for the post of Police Patil. He has submitted that the said act of the respondent No. 3 is in violation of terms and conditions mentioned in the advertisement, as the respondent No. 4 has not passed 10th Std. (S.S.C) examination conducted by the Maharashtra State Secondary Education Board. She is not qualified and eligible for appointment on the post of Police Patil. Therefore, he prayed to quash the selection and appointment of respondent No. 4 on the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon.

12. He has further submitted that the respondent No. 4 was active Member of B.J.P. Muktainagar and therefore, she is not eligible for the appointment on the post of Police Patil. He has submitted that the said aspect has not been considered by the respondent No. 3, while selecting the respondent No. 4 for the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon. Therefore, he prayed to allow the present Original Application on that ground also.

13. Learned Presenting Officer as well as learned Advocate for respondent No. 4 have submitted that the respondent No. 4 was Member of B.J.P., Muktainagar, but she had resigned from her post and membership by tendering her resignation on 9.7.2015 and her resignation has been accepted by the District President of B.J.P., Muktainagar on 24.07.2015. They have attracted my attention to the documents produced on the page Nos. 100 and 101 in that regard. They have submitted that on the date of filing the application for the appointment of Police Patil, the respondent No. 4 was not affiliated to any political party and therefore, she cannot be disqualified on that ground. They have further submitted that as per the Recruitment Rules of Police Patil, a candidate applying for the post shall have to pass 10th Std. (SCC) examination. They have submitted that the Rule does not provide that the candidate must pass 10th Std. examination conducted by the Maharashtra State Secondary Education Board. They have submitted that the condition mentioned in the advertisement is not in accordance with the Recruitment Rules and it has been mistakenly mentioned that the candidate shall have to pass 10th Std. i.e. S.C.C. examination of Maharashtra State Secondary Education Board. He has submitted that the said mistake has been corrected by the respondent No. 3, while considering the candidature of the

respondent No. 4 and there was no illegality in it. Therefore, they supported the decision taken by the respondent No. 3 declaring the respondent No. 4 as selected candidate for the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon. Therefore, they prayed to reject the present Original Application.

14. On going through the provisions of Maharashtra Village Police Patil (Appointment, Honorarium, Allowances and Conditions of Services) Order 1968 and G.Rs. issued from time to time, it reveals that the minimum educational qualification for the appointment on the post of Police Patil is that the candidate shall have to pass 10th Std. i.e. S.C.C. examination. The G.R. dated 26.08.2010 makes it essential that the candidate shall have to pass 10th Std. examination for applying for the post of Police Patil. In the said Rule nowhere it is mentioned that the candidate must have to pass examination of 10th Std. (S.C.C.) conducted by the Maharashtra State Secondary Education Board only. But on going through the advertisement, issued by the respondent No. 3, which is at paper book page No. 13 (Annexure - 'A') onwards it reveals that on page No. 17 it has been specifically mentioned that the candidates applying for the post of Police Patil shall have to pass S.C.C. examination of Maharashtra State Secondary Education Board. The said condition mentioned in the

advertisement published on 3.11.2015 is in contravention of the Rule 3(b), as well as, G.Rs. dated 14.05.2002 and 26.08.2010. In fact, the respondent No. 3 ought to have mentioned minimum qualification of the candidate applying for the post of Police Patil as passing of 10th Std. examination i.e. S.C.C. without mentioning the name of the particular Board, but the respondent No. 3 has published advertisement on 3.11.2015 inviting applications from the candidates stating that the candidate shall have to pass S.C.C. examination from the Maharashtra State Secondary Education Board only. Because of the said condition mentioned in the advertisement, other candidates, who were otherwise eligible, were deprived of their right to file application and therefore, on that count, in my opinion, the recruitment process conducted by respondent No. 3 is illegal, as it is in contravention of provisions of Recruitment Rules of Police Patil.

15. So far as the selection of respondent No. 4 as Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon, it is crystal clear that the respondent No. 4 has not complied with the terms and conditions mentioned in the advertisement, which requires that the candidate shall have to pass 10th examination i.e. S.C.C. examination conducted by the Maharashtra State Secondary Education Board. The respondent No. 3 has to act

upon on the basis of terms and conditions mentioned in the advertisement, but he had not considered the said aspect. He had not scrutinized the documents produced by the respondent No. 4 at the time of verification, with due care and caution. He ought to have rejected the candidature of respondent No. 4 at the stage of verification of documents before calling her for oral interview, as she was not satisfying essential requirement of educational qualification as mentioned in the advertisement, which is at paper book page no. 17. The respondent No. 3 has admitted the said fact that there was mistake on his part while publishing advertisement stating that the candidate shall have to pass S.S.C. examination of Maharashtra State Secondary Education Board only. But the respondent No. 3 made attempt to justify his decision declaring respondent No. 4 as selected candidate on the ground that the recruitment Rules provided that candidate passing S.S.C. examination is eligible for the post of Police Patil. The very contention of respondent No. 3 is not acceptable, since the terms and conditions mentioned in the advertisement published on 3.11.2015 are totally different. Had it been a fact that, the minimum educational qualification is passing of 10th Std. or S.S.C. then definitely the other aspiring candidates acquiring similar qualification would have applied for the said post, but condition mentioned in the advertisement

provides that the candidate has to pass 10th Std. S.C.C. of Maharashtra State Secondary Education Board only. Because of the mentioning of the said condition which is against the provisions of Recruitment Rules for Police Patil, injustice has been caused to those aspiring candidates. The Respondent No. 3 had not considered the recruitment Rules and the G.Rs. issued by the State Government from time to time with proper perspective and therefore, entire recruitment process of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon was vitiated. The justification given by the respondent No. 3 for selection and appointment of respondent No. 4 for the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon is not justifiable and acceptable as it is not in accordance with the terms and conditions mentioned in the advertisement dated 3.11.2015. Even if, it is assumed that as per advertisement the candidate shall have to pass 10th examination conducted by the Maharashtra State Secondary Education Board, the respondent No. 4 has not fulfilled the said condition and therefore, her selection as Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon is not legal. Therefore, the decision of respondent No. 3 declaring the respondent No. 4 as selected candidate for the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon is not legal, proper and correct.

Consequently, the appointment of the respondent 4 on the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon is not legal and proper. Therefore, it requires to be quashed and set aside by allowing the present Original Application. Therefore, the present Original Application deserves to be allowed.

16. As regards other contentions of the applicant that the respondent No. 3 has not dealt with her objection that the respondent No. 4 is not resident of village Pimpri (Nandu). It is crystal clear that the respondent No. 4 has produced necessary documents on record and on considering the same; the respondent No. 3 has rightly decided the said issues. Therefore, I find no substance in the submission advanced on behalf of the applicant.

17. The applicant has further contended that, the respondent No. 4 is not legal heir of former Police Patil and therefore, her appointment is illegal. But record shows that the respondent No. 4 was not selected as heir of former Police Patil. She was selected as she secured highest marks. Therefore, I find no substance in the contention raised by the applicant in that regard.

18. In view of the above said discussions in the foregoing paragraphs, the Original Application is allowed. The selection and appointment of respondent No. 4 as Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon on the basis of selection list dated 6.4.2016 prepared by respondent No. 3 and giving appointment to her on the basis of it, are quashed and set aside.

The respondent No. 3 is directed to conduct recruitment process for the post of Police Patil of village Pimpri (Nandu), Tq. Muktainagar, Dist. Jalgaon, afresh in view of the provisions of Maharashtra Gram Police Patil Rules and G.Rs. issued by the State Government from time to time in that regard.

There shall be no order as to costs.

(B.P. PATIL)
MEMBER (J)

KPB/S.B. O.A. No. 616 of 2016 BPP 2017 Police Patil

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 616/2016
(Smt. Sonali Anil Choudhari V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : B.P. PATIL, MEMBER (J)

DATE : 31.08.2017.

ORAL ORDER :

Heard Shri Vinod Patil, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for respondent Nos. 1 to 3 and Shri Vaibhav R. Patil, learned Advocate for the respondent No. 4.

2. Learned Advocate for the respondent No. 4 has submitted that the respondent No. 4 wants to challenge the order of the Tribunal before the Hon'ble High Court and therefore, he prayed to stay the execution and operation of this order for one week.

3. The learned Advocate for the applicant has submitted that he has no objection to stay the operation of the order passed by this Tribunal for one week from today.

//2// O.A. No. 616/2016

4. Learned Presenting Officer has submitted that necessary orders may be passed.

5. Since, the respondent No. 4 wants to challenge this order passed by the Tribunal before the Hon'ble High Court and to obtain necessary orders from the Hon'ble High Court and the applicant has no objection to grant stay, the operation of this order is stayed till 06.09.2017.

MEMBER (J)

ORAL ORDER 31-8-2017 KPB