

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 208 OF 2016

DISTRICT: AURANGABAD

Shri Sanket s/o Prakash Sable,
Age: 28 years, Occu. : Agri.,
R/o Ghorkund, Tq. Soygaon,
Dist. Aurangabad.

.. **APPLICANT**

V E R S U S

- 1) The State of Maharashtra,
Through Secretary,
Home Department,
Mantralaya, Mumbai -32.
- 2) The Sub Divisional Officer/Magistrate,
Sillod, Dist. Aurangabad.
- 3) Shri Jitendra s/o Bharatlal Jaiswal,
Age-32, Occ. : Agril,
R/o. Ghorkund, Tq. Soygaon,
Dist. Aurangabad.

.. **RESPONDENTS**

APPEARANCE : Shri Kakasaheb B. Jadhav, learned Advocate
for the Applicant.

: Shri V.R. Bhumkar, learned Presenting
Officer for the Respondent nos. 1 & 2.

: Shri M.C. Ghode, learned Advocate holding for
learned Advocate for respondent no. 3.

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

ORAL ORDER**(Delivered on this 8th day of February, 2017.)**

1. Heard Shri Kakasaheb B. Jadhav, learned Advocate for the applicant, Shri V.R. Bhumkar, learned Presenting officer for the respondent nos. 1 & 2 and Shri M.C. Ghode, learned Advocate holding for Shri Kiran Kulkarni, learned Advocate for respondent no. 3.

2. The applicant has contended that he is permanent resident of village Ghorkund, Tq. Soygaon, Dist. Aurangabad. It is his contention that the respondent no. 2 issued an advertisement for filling up the post of Police Patil in the Sillod Sub-Division including the Soygaon Taluka, on 02.02.2016. In response to the said advertisement, the applicant has filed application to the respondent no. 2 for the post of Police Patil of village Ghorkund, Tq. Soygaon, Dist. Aurangabad. The respondent no. 3 has also applied for the said post of village Ghorkund, Tq. Soygaon, Dist. Aurangabad. After written examination, the applicant and respondent no. 3 were called for oral interview. The applicant has scored 67 marks in written examination and 12 marks in oral interview, whereas the respondent no. 3 has scored 47 marks in written examination and 09 marks in oral interview. The applicant has scored highest marks. The applicant is permanent

resident of village Ghorkund, Tq. Soygaon, Dist. Aurangabad. The respondent no. 2 without considering the said fact selected the respondent no. 3 for the post of Police Patil of village Ghorkund, Tq. Soygaon, Dist. Aurangabad and therefore, the applicant has filed present Original Application for quashing the selection of respondent no. 3 to the post of Police Patil of village Ghorkund.

3. The respondent no. 2 has filed affidavit in reply and contended that the applicant has filed cast certificate dated 17.10.2007 issued by the Sub-Divisional Officer, Pachora Division, Pachora and it shows that the applicant is resident of village Dongargaon, Tq. Pachora, Dist. Jalgaon. Therefore, the respondent no. 2 has held that the applicant is not permanent resident of village Ghorkund, Tq. Soygaon, Dist. Aurangabad. Consequently, the S.D.O., Sillod, Dist. Aurangabad has selected the respondent no. 3 for the post of Police Patil of village Ghorkund, Tq. Soygaon, Dist. Aurangabad.

4. The respondent no. 3 has also filed affidavit in reply raising similar contention to that of the contentions raised by the respondent no. 2.

5. The learned Advocate for the applicant submits that in the year 2007, he was residing in the village Dongargaon, Dist

Pachora, Dist. Jalgaon and at that time, he has filed application for issuing cast certificate and therefore, cast certificate has been issued by the Sub-Divisional Officer, Pachora Division mentioning his address of Dongargaon, Dist Pachora, Dist. Jalgaon. Thereafter, the applicant shifted to village Ghorkund, Tq. Soygaon, Dist. Aurangabad and started residing there. He owns immovable property in that village. He has also placed on record certificate issued by the Grampanchayat, 7/12 extract, voters list, Adhar Card on the address of village Ghorkund, Tq. Soygaon, Dist. Aurangabad. The S.D.O. without considering the said documents and fact that the applicant is permanently residing at Ghorkund at the time of selection process for the post of Police Patil of village Ghorkund, Tq. Soygaon, Dist. Aurangabad, disqualified him for the post of Police Patil and selected the respondent no. 3 for the said post. Therefore, he prays to quash the order of selection of respondent no. 3 for the post of Police Patil of village Ghorkund, Tq. Soygaon, Dist. Aurangabad.

6. The learned Presenting Officer for respondent no. 2 and learned Advocate for respondent no. 3 have submitted that the respondent no. 2 has properly followed the selection process and accordingly selected the respondent no. 3 for the post of Police Patil of village Ghorkund, Tq. Soygaon, Dist. Aurangabad.

They have submitted that the applicant produced caste certificate, which shows that he is resident of village Dongargaon Tq. Pachora, Dist. Jalgaon and therefore, S.D.O. has rightly disqualified the applicant and selected the respondent no. 3 for the said post. They have further submitted that in case the Tribunal is of the opinion to quash the selection of respondent no. 3 then the respondent no. 2 be directed to take decision afresh regarding selection and appointment for the post of Police Patil by giving proper opportunity to both the parties i.e. applicant and respondent no. 3 to submit the documents.

7. On going through the documents, it appears from the communication dated 14.03.2016, sent by S.D.O., Sillod that the S.D.O. has not considered the applicant as eligible candidate for the post of Police Patil of village Ghorkund, Tq. Soygaon, Dist. Aurangabad on the ground that the cast certificate issued by the Sub-Divisional Officer, Pachora shows that the applicant is resident of Pachora Dist. Jalgaon and not resident of Ghorkund, Tq. Soygaon, Dist. Aurangabad. Said communication shows that the S.D.O. has not considered the aspect regarding permanent residence of the applicant judiciously. He has not considered the documents produced by the applicant regarding his permanent residence at village Ghorkund, Tq. Soygaon, Dist. Aurangabad.

8. In these circumstances, the impugned order of S.D.O. selecting respondent no. 3 for the post of village Ghorkund, Tq. Soygaon, Dist. Aurangabad is not legal and proper and therefore, it requires to be quashed. Therefore, the impugned order is quashed and the selection of respondent no. 3 to the post of Police Patil of village Ghorkund, Tq. Soygaon, Dist. Aurangabad is set aside. The matter be referred to S.D.O., Sillod with a direction to consider the matter afresh after considering the documents produced by both the candidates i.e. the applicant and respondent no. 3. Hence, I pass following order:-

ORDER

1. The Original Application is allowed.
2. The impugned order of S.D.O., Sillod disqualifying the applicant for the post of Police Patil of village Ghorkund, Tq. Soygaon Dist. Aurangabad is quashed and the selection of respondent no. 3 to the post of Police Patil of village Ghorkund, Tq. Soygaon, Dist. Aurangabad is set aside.
3. The S.D.O., Sillod is directed to take decision as regards selection for the post of Police Patil of village Ghorkund,

Tq. Soygaon, Dist. Aurangabad afresh by giving opportunity to the applicant and respondent no. 3.

4. The decision as directed above shall be taken within a period of three months from the date of this order.

There shall be no order as to costs.

(B.P. PATIL)
MEMBER (J)

KPB/S.B. O.A. No. 208 OF 2016 BPP 2017 Police Patil