

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 622/2023(S.B.)

Shri Gautam S/o Natthuji Meshram,
Aged about 41 years;
Occupation-Agriculturist;
R/o- House No.21(new)114/1(old),
Ward No.2, Village-Ramgiri,
Tahsil-Kalmeshwar,
District- Nagpur (441501).

Applicant.

Versus

1. State of Maharashtra,
through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.
2. Sub Divisional Magistrate,
Tahsil-Saoner; District- Nagpur.

Respondents

Shri S.B.Tiwari, Ld. Counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 01st February, 2024.

JUDGMENT

Heard Shri S.B.Tiwari, learned counsel for the applicant and Shri V.A.Kulkarni, learned P.O. for the Respondents.

2. Case of the applicant in short is as under-

The applicant is resident of village Ramgiri, Tahsil Kalmeshwar, District Nagpur. Applicant belongs to Scheduled Caste Category. The respondents have published proclamation on 07.08.2015 wherein the applications from the eligible candidates were invited in the year 2015 and required to remain present on 31.08.2015. The candidates to be appointed as a Police Patil and has to appear in the written test carrying 80 marks and oral test carrying 20 marks. One of the eligibility criteria for the said post was that candidate should be resident of respective village. The applicant appeared in the written examination and scored 59 marks and in the oral interview he secured 13 marks. The applicant secured 72 marks i.e. highest marks compared to the other candidates. Next candidate Dhyaneshwar Dhanraj Narnaware got only 58 marks and other candidates namely Baban Patil got 69 marks etc.

3. The applicant was not selected on the ground that he was not having his own residential house at village Ramgiri, Tahsil Kalmeshwar, District Nagpur. It is submitted that the applicant had produced the Xerox copy of the Tax receipt, but it was not accepted.

The applicant is having his own residential property at village Ramgiri. The respondents have not considered and illegally not selected/posted the applicant on the post of Police Patil. Therefore, the applicant has approached to this Tribunal for the following reliefs-

1) Call for the record and proceedings in respect of the selection for the post of Police Patil at village Ramgiri, Kalmeshwar, Nagpur.

II) Declare that the omission on the part of the respondents in not finally selecting and appointing applicant as Police Patil of Village-Ramgiri from Tahsil-Kalmeshwar, District- Nagpur is contrary to the relevant act and rules governing recruitment of the Police Patil.

IV) Direct the Respondents to Select and appoint the applicant as Police Patil of Village-Ramgiri from Tahsil-Kalmeshwar, District- Nagpur being most eligible candidate as per the act and the rules amongst all the successful candidates from the same village.

IV) The application may be allowed with cost on the respondents.

V) Grant any other relief which this Honorable court may find applicant entitled to in the light of facts and circumstance of the present case in the interest of justice.

10) INTERIM RELIEF IF ANY PRAYED FOR:

In the existing circumstances and in terms of the prayer clause (II), (III) and (IV) above this Honorable tribunal may be kindly pleased to;

VI) Direct the respondent no.1 and 2 to keep the post of the Police Patil at Ramgiri, Kalmeshwar, Nagpur vacant and further not to initiate fresh recruitment in respect of the post of the Police Patil at Ramgiri, Kalmeshwar, Nagpur during the pendency and until final decision of the instant original application in the interest of justice.

VII) Direct the respondent no.1 and 2 that the appointment for the post of Police Patil at Ramgiri, Kalmeshwar, Nagpur shall be subject to the final decision of this Original Application.

VIII) Grant Ad interim relief in terms of the prayer clause (VI) and (VII) in the interest of justice.

3. The O.A. is strongly opposed by the respondents 1 and 2. The respondents 1 and 2 have stated in para 3 of the reply that the applicant has produced Xerox copy of Tax receipt of house but he failed to produce the original copy of the same at the time of interview. Therefore, name of applicant is not including in the final selection list of Police Patil.

4. During the course of submission, the learned counsel for the applicant has produced marks obtained by the applicant and other candidates in the written examination as well as in the oral examination. As per this chart Exhibit-X the applicant got 72 marks

i.e. the highest marks as compared to the other candidates. The refusal by the respondents on the ground that the applicant was not holding his own residential property at village Ramgiri is not legal and proper.

5. The Hon'ble Bombay High Court in the case of **Arun Tukaram Patil Vs. State of Maharashtra and Others [1993 (3) Mh.L.J.594]** and **Rajesh Krishna Kale Vs. State of Maharashtra and Others** have held that it was not necessary for the respondent no.3 (candidate) to own and possess landed property in the village since he had admittedly secured more marks than the Petitioner. Tribunal directed to Sub-Divisional officer to appoint the Petitioner on the post of Police Patil. The order of this Tribunal is perfectly legal and correct. The learned counsel for the applicant has pointed out the Judgment of this Tribunal in O.A.No.416/2019, material part of the Judgment in para 7 is reproduced below-

7. *One of the Judgment was challenged before the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.2880/2016. The Hon'ble High Court has held that in view of the Judgments in the cases of **Arun Tukaram Patil Vs. State of Maharashtra and others** and **Rajesh Krishna Kale Vs. State of Maharashtra and others**, it was not necessary for the candidate to own and possess the landed property and therefore*

appointment cannot be refused on that ground. The Hon'ble High Court has held as under-

*“A proclamation was issued on 07/08/2015 by the Sub Divisional Officer, inviting applications for appointment on the post of Police Patil from village Weltur from Open Category (female) candidates. According to the proclamation, a candidate was required to be a resident of Weltur and apart from certain other conditions, that were required to be satisfied, was also required to own a landed property in Weltur. The respondent No.3 as well as the petitioner applied for the post of Police Patil along with others. Admittedly, the respondent No.3 had secured more marks than the petitioner. However, the candidature of the respondent No.3 was rejected on the ground that she did not own and possess landed property in village Weltur. The action on the part of the Sub Divisional Officer in appointing the present petitioner was challenged by the respondent No.3 before the Maharashtra Administrative Tribunal. It was argued before the Tribunal on behalf of the respondent No.3 that in view of the settled position of law, it was not required for a candidate to own and possess landed property. The Tribunal on an appreciation of the material on record and the judgments, reported in **1993 (3) Mh.L.J. 594 (Arun Tukaram Patil v. State of Maharashtra and others)** and **2015 (4) Mh.L.J. 79 (Rajesh Krishna Kale v. State of Maharashtra and others)**, held that it was not necessary for the respondent No.3 to own and possess the landed property in Weltur. Since the respondent No.3 had admittedly secured more marks than the petitioner, the Tribunal directed the Sub Divisional Officer to appoint the respondent No.3 on the post of Police Patil. The order of the Tribunal is challenged in the instant petition.”*

6. This Tribunal relying on the Judgment of the Hon'ble Bombay High Court has held that it is not necessary for the post of

Police Patil to own and possess house and landed property in the village. The respondents have not selected the applicant on the ground that he is not having landed property (residential property) in the village Ramgiri. On the other hand, reply filed by the respondents itself shows that Xerox copy of Tax receipt was produced but it was not accepted on the ground that original was not produced. It was the duty of the respondents to get it verified from the Gramsevak of the village as to whether Xerox copy of Tax receipt produced by the applicant was as per record or not. Moreover, as per the Judgment cited above holding of landed property in the village is not required for the post of Police Patil. The applicant has secured highest marks in the examination. Therefore, it was the duty of the respondents to select the applicant for the post of Police Patil.

7. During the course of submission, learned P.O. has submitted that till the date Police Patil is not appointed in the village Ramgiri. Hence, the following order is passed-

ORDER

1. The O.A. is allowed.
2. The respondents are directed to appoint the applicant on the post of Police Patil of village Ramgiri,

Tahsil Kalmeshwar, District Nagpur within a period of one month from the date of receipt of this order.

3. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated - 01/02/2024
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Vice Chairman.
Judgment signed on : 01/02/2024.
Uploaded on : 07/02/2024.
