

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.456/2016**

DISTRICT – JALNA

-----  
Mohd. Imran Khan s/o Mohd. Haroon Khan,  
Age : 27 years, Occ : Educate/Unemployed,  
R/o. Mantha Chaufuli,  
Behind Ambekar Hospital,  
Jalna, Dist. Jalna. ...APPLICANT

**V E R S U S**

1. The Special Inspector General of Police,  
Office of the Special I.G.,  
Near Youth Hostel, Station Road,  
Aurangabad.
2. The Superintendent of Police,  
Jalna, Dist. Jalna. ...RESPONDENTS

-----  
APPEARANCE :Shri S.D.Joshi learned Advocate for the  
applicants.

Shri D.R.Patil, learned Presenting Officer  
for the respondents.

-----  
CORAM: Hon'ble Shri Rajiv Agarwal, Vice-Chairman (A)  
A N D  
Hon'ble Shri B. P. Patil, Member (J)

-----  
**DATE: 16<sup>th</sup> February, 2017.**  
-----

**ORAL ORDER**

**[PER: VICE-CHAIRMAN (A)]**

Heard Shri S.D.Joshi, learned Advocate for the  
Applicant and Shri D.R.Patil learned Presenting Officer (PO)  
for the Respondents.

2. In this O.A. the applicant claims that he had applied for the post of Police Constable in the selection process for Jalna District in the year 2014 from Open Sports Category. The Applicant has secured a total of 121 marks in the selection process. In the select list published by the respondent no.1, 3 persons from Open Sports category, namely, S/shri Aamer Azhar Yar Khan, Yahya Mohd. Shaikh and Sachin Dange were shown to have been selected from Open Sports category. Later on, S/shri Aamer Azhar Yar Khan and Yahya Mohd. Shaikh were not given appointment as their Sports Certificates were held to be invalid. Respondent no.2 was, therefore, required to appoint persons from waiting list from Open Sports category.

3. Shri S.D.Joshi, learned Advocate for the applicant stated that one Shri P. Kachare, who has secure 124 marks in the selection process is selected. In paragraph 4(iv) of the O.A. the applicant has claimed that in the waiting list which was published by respondent no.2, the applicant's name was at Sr.No.2. This fact has not been denied by respondents in their affidavit in reply dated 24-10-2016. In

fact, in paragraph no.7 of the affidavit in reply, contents of this paragraph are expressly admitted by the respondents. Learned Advocate Shri Joshi further states that, in the whole affidavit in reply, no reason is assigned by the respondents for not operationalizing the waiting list and for not appointing the applicant in second vacancy, though applicant was at Sr. No.2 in the waiting list.

4. Learned P.O. stated that the applicant was not appointed because he has scored less marks than Shri P. Kachare and that is the only reason advance by the learned P.O. on behalf of the respondents for denying the appointment to the applicant.

5. On careful scrutiny of the affidavit of the respondent nos.1 and 2 dated 25-10-2016, we are unable to find any reason which prompted the respondents not to give appointment to the applicant in the vacancies which remained unfilled because persons who were earlier included in the select list were found non-eligible as their Sports certificates were found to be invalid. The claim of the applicant that he was no.2 in the waiting list has been expressly accepted by the respondents. Considering all these facts, we are unable to comprehend as to how

respondent no.2 can deny the appointment or selection to the applicant from Open Sports category.

6. Having regard to the aforesaid facts and circumstances of the case, respondent no.2 is directed to appoint the applicant as Police Constable from Open Sports category, if he is otherwise found eligible. O.A. is disposed of accordingly with no order as to costs.

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

**(Rajiv Agarwal)**  
**Vice-Chairman (A)**

**Place : Aurangabad**  
**Date : 16-02-2017.**