

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.172/2016

DISTRICT – JALGAON

Bhagwan s/o Narayan Patil,
Age: 39 years, Occ : Agriculture,
R/o : Aarvey, Tq. Pachora,
District Jalgaon.

...APPLICANT

V E R S U S

1. The Principal Secretary,
Urban Development Department,
State of Maharashtra,
Mantralaya, Mumbai-32
2. The Principal Secretary,
Home Department,
State of Maharashtra,
Mantralaya, Mumbai-32.
3. The Divisional Commissioner,
Nashik Division, Nashik.
4. The District Collector,
Office of the Collectorate,
Jalgaon.
5. The District Superintendent of Police,
Jalgaon.
6. The Sub Divisional Officer,
Pachora Division, Pachora,
District Jalgaon.
7. The Tahsildar,
Pachora, District Jalgaon.

8. Devidas s/o Dhanraj Patil,
Age : 32 years, Occ : Agriculture &
Household,
R/o. Aarvey, Tq. Pachora,
District Jalgaon. ...RESPONDENTS

APPEARANCE :Shri D.B.Thoke, learned Advocate for
the applicant.

:Shri S.K.Shirse, learned Presenting
Officer for the respondent nos.1 to 7.

:Shri V.C.Sharma/S.V.Suryavanshi
learned Advocate for respondent no.8.

CORAM : Hon'ble Shri J.D.Kulkarni, Member (J)

DATE : 20th December, 2016

J U D G M E N T
[Delivered on 20th December, 2016]

Applicant Bhagwan s/o Narayan Patil has applied for the post of Police Patil of Village Aarvey, Tq. Pachora, District Jalgaon in view of the advertisement dated 02-11-2015. He appeared for written examination and secured 45 marks out of 80. Respondent no.8 has taken objection for applicant's candidature on 11-01-2016. Respondent no.6 forwarded complaint of respondent no.8 to the applicant and asked for his reply. Accordingly, on 23-02-2016 the applicant appeared before the

respondent no.6 i.e. Sub Divisional Officer, Pachora and filed his say.

2. One Gafur Lahaanu Tadvi, Dnyaneshwar Waman Nath and Arun Laxman Badgujar, the villagers of Aarvey, filed their statement before Sub Divisional Officer and stated that applicant is resident of the village Aarvey and he is continuously in touch with them. However, respondent no.6 Sub Divisional Officer, Pachora passed the impugned order dated 26-02-2016 disqualifying the applicant for the post of Police Patil and removing him from further process of recruitment. Applicant has, therefore, filed this O.A.

3. Applicant has claimed that the impugned order dated 26-02-2016 passed by respondent no.6 be quashed and set aside. Reply affidavit is filed on behalf of the respondent nos.6 & 7 opposing claim of the applicant. It is stated that the applicant is not resident of village Aarvey since last 6-7 years, and therefore, he is not eligible for being considered for the post of Police Patil. Respondent no.8 also filed reply affidavit and submitted that the applicant is resident of Pachora. He is not holding any personal ration card and ration card appears in the name of his father. All the documents, such as bank account, pass book, ration card etc. are old one. The applicant runs shop in the name and

style of Kisan Agencies and Hardware at Shivaji Nagar, Pachora. He is also doing business and it is registered under the Shop Act. He owns a house constructed in cement concrete at Pachora on Plot No.119 bearing Survey No.105/1+2+3+4 situated at Krushnapuri, Pachora. Said house is given property no.2686/114 by the Pachora Municipal Council.

4. Perusal of the impugned order shows that the respondent no.3 came to the conclusion that though the applicant has filed on record documents showing that he is resident of Village Aarvey, but in fact, he is resident of Pachora and is not residing at village Aarvey from last 5-6 years. Relevant observations of the Sub Divisional Officer is as under (page 52-53):

“प्रस्तुत प्रकरणी पोलीस निरीक्षक, पाचोरा पोलीस स्टेशन यांचा चौकशी अहवाल प्राप्त झालेला असून सदर चौकशी अहवालात श्री. भगवान नारायण पाटील हे आर्वे ता. पाचोरा येथील रहिवासी असून सुमारे ५-६ वर्षांपासून पाचोरा येथे शारदा इंग्लिश स्कुलच्या पाठीमागे असलेल्या प्रेमनगर भागातील स्वतःच्या घरात सहकुटूंब राहात असल्याचे चौकशीत निष्पन्न झाल्याचे नमूद आहे. तसेच तहसिलदार पाचोरा यांचेकडून चौकशी अहवाल मागविण्यात आलेला असून सदर चौकशी अहवालानुसार श्री. भगवान नारायण पाटील यांचे निवडणूक कार्ड, आधार कार्ड, अधिवास प्रमाणपत्र, यावर आर्वे ता. पाचोरा येथील पत्ता नमूद असून त्यांच्या कागदपत्रांचे अवलोकन केले असता ते आर्वे ता. पाचोरा येथील रहिवासी असल्याबाबत अहवाल सादर केलेला आहे.

पोलीस पाटील पदासाठीच्या पात्रतेपैकी त्याच्या रहिवासाबाबत नियमात खालील तरतुद आहे:-

१) महाराष्ट्र ग्राम पोलीस पाटील (सेवा प्रवेश, पगार भत्ते आणि सेवेच्या इतर शर्ती) आदेश, १९६८ मधील नियम ३(१)(क)

अन्वये जी व्यक्ती ज्या गावाकरिता नेमणूक करावयाची असेल त्या गावाची किंवा ग्राम समुहाच्या बाबतीत, त्यापैकी कोणत्याही गावाची रहिवाशी नसेल अशी कोणतीही व्यक्ती पोलीस पाटील म्हणून नियुक्त केले जाण्यास पात्र असणार नाही, अशी तरतुद आहे. तसेच नियम ५ चे (२) नुसार, निवड करतांना, सक्षम प्राधिकारी, अर्जदार गावक-यांना माहित आहे किंवा नाही, गावातील सर्व परिस्थितीची त्याला जाणीव आहे किंवा नाही आणि गावात त्याची स्थावर मालमत्ता आहे की नाही हे विचारात घेईल.

२) महाराष्ट्र ग्राम पोलीस अधिनियम १९६७ चे कलम ६ मध्ये पोलीस पाटलाची कर्तव्ये निश्चित करण्यात आलेली आहे. त्यातील कर्तव्ये क्रमांक ३, ६ व ७ चे विशेष करून अवलोकन केले असता त्यासाठी पोलीस पाटील हा केवळ कागदोपत्री नव्हे तर प्रत्यक्ष गावात राहणारा असून वरील महाराष्ट्र ग्राम पोलीस पाटील (सेवा प्रवेश, पगार भत्ते आणि सेवेच्या इतर शर्ती) आदेश १९६८ चे नियम ३(१)(क) अन्वये त्या गावाची प्रत्यक्ष रहिवाशी असल्याशिवाय आणि नियम ५ चे (२) नुसार त्यास गावाची परिस्थिती व लोकांविषयी माहिती असल्याशिवाय तो पोलीस पाटील पदाची कर्तव्ये पार पाडू शकत नाही. त्यामुळे गावात घर किंवा मालमत्ता असण्यापेक्षा पोलीस पाटलाचे गावात वास्तव्य असणे अधिक महत्वाचे आहे.

३) तक्रारदार यांनी श्री. देविदास धनराज पाटील हे पाचोरा येथे राहत असल्याबाबत पुरावे सादर केलेले आहेत. तसेच श्री. भगवान नारायण पाटील, यांनी आर्वे ता. पाचोरा येथील रहिवासी असल्याबाबत रेशन कार्ड, आधार कार्ड, रहिवाशी दाखला तलाठी व ग्रामसेवक, मतदान कार्ड, शेतीचा व घराचा उतारा, गॅस एजन्सीचे कागदपत्र, बँकेचे पासबुकची नक्कल हे पुरावे सादर केलेले आहेत.

वरील तक्रारी अर्ज, तक्रारदार यांचा युक्तीवाद, उमेदवार यांचा खुलासा व त्यासोबतचे कागदपत्र इत्यादींचे अवलोकन करता, श्री भगवान नारायण पाटील हे मौजे आर्वे येथील मूळ रहिवासी असले तरी ते गेल्या ५-६ वर्षांपासून पाचोरा येथे राहात असल्याचे दिसून येते. त्यामुळे ते पोलीस पाटील पदासाठी आवश्यक असलेल्या रहिवासाबाबतच्या निकषाची पूर्तता करित नल्याने त्यांना पोलीस पाटील पदासाठी उमेदवार म्हणून पात्र ठरविता येणार नाही. सबब, मी, उपविभागीय अधिकारी पाचोरा भाग पाचोरा खालीलप्रमाणे आदेश देत आहे.

आदेश

आक्षेपकर्ते श्री. देविदास धनराज पाटील, रा. आर्वे, ता. पाचोरा यांचा आक्षेप मान्य करण्यात येतो व श्री. भगवान नारायण पाटील यांना पोलीस पाटील पदासाठी अपात्र ठरविण्यात येते व सदर पदभरतीच्या पुढील प्रक्रियेतून वगळण्यात येते-”

(quoted as verbatim from paper book
page 52-53)

5. Heard Shri Shri D.B.Thoke, learned Advocate for the applicant, Shri S.K.Shirse, learned Presenting Officer for the respondent nos.1 to 7 and Shri V.C.Sharma/S.V.Suryavanshi learned Advocate for respondent no.8. Perused memo of O.A., affidavits in reply and various documents placed on record by the parties.

6. From the facts and documents on record it is clear that the Sub Divisional Officer, Pachora seems to have made enquiry as regards residence of the applicant of the village for which he has applied for the post of Police Patil. Perusal of the impugned order passed by the Sub Divisional Officer clearly shows that Sub Divisional Officer seems to be somewhat confused. Learned Sub Divisional Officer has referred to Rule 3(1) (c) and Rule 5(2) of Maharashtra Village Police Patil (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1968 and came to the conclusion that even though the applicant claims to be resident of Village Aarvey, he is not residing there from 5-6 years and he is residing at Pachora. Therefore, he cannot be considered for the post of Police Patil.

7. In fact Rule 5 states about the procedure to be adopted for selection of Police Patil. It is stated that while selecting the candidate as Police Patil, it shall be taken into consideration as to whether the person to be appointed has landed property in the village and whether he has personal knowledge about people residing in the village etc. It has been stated in the Government Resolution dated 30-07-1970 that the Police Patil can be given appointed for more than one village and clause in this regard is as under:

“गावातील सर्व लोकांची व त्यांच्या व्यवसायाची तसेच तेथील स्थानिक परिस्थितीची इत्यंभूत माहिती ठेवणे व कायदा सुव्यवस्थेची जबाबदारी पोलीस पाटलावर असल्याने तो तेथील स्थानिक रहिवासी असणे आवश्यक आहे. एक किंवा एकापेक्षा जास्त गावासाठी एकच पोलीस पाटील असेल तेव्हा अशा गावापैकी कोणत्याही एका गावाचा तो रहिवासी असणे गरजेचे आहे.”

8. From the aforesaid provisions it is clear that a Police Patil can look after two or more villages and it is not necessary that such person shall be resident of all the villages. Perusal of the enquiry conducted by the Police Inspector (PI) shows that statements of only 2 persons are recorded. Those 2 persons have stated that the applicant does not reside at Aarvey but at Pachora. It is not known as to how they came to know about the details regarding the applicant in voters' list at Pachora etc. It also cannot be ignored that some villagers have given statement that applicant resides in

village Aarvey and is also having landed property at Aarvey.

9. The Sub Divisional Officer has not denied that the applicant is resident of Village Aarvey and that he possesses landed property at Aarvey. In such circumstances, his conclusion that applicant is not resident of Village Aarvey, is not proper, and in any case, Sub Divisional Officer seems to be confused. At the most Sub Divisional Officer should have asked to the applicant to give undertaking that he will reside at Village Aarvey itself during his tenure as Police Patil, if selected. He could have also asked to submit undertaking to that effect and if applicant commits breach of such undertaking, necessary action can be taken against the applicant.

10. In view thereof, conclusion drawn by the Sub Divisional Officer on the basis of vague statements of two persons that applicant is not resident of Village Aarvey, cannot be accepted as a gospel truth. I, therefore, feel that denial of opportunity to the applicant to take part in the process of recruitment is not legal and proper. Hence, following order:

ORDER

- (i) O.A. is allowed.

- (ii) Impugned order dated 26-02-2016 passed by respondent no.6 Sub Divisional Officer, Pachora disqualifying applicant for the post of Police Patil and removing him from further process of recruitment is quashed and set aside.
- (iii) Respondent no.2 is directed to allow the applicant to take part in the recruitment process as prayed for.
- (iv) There shall be no order as to costs.

(J. D. Kulkarni)
MEMBER (J)