

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.173/2016

DISTRICT – JALGAON

Sau. Arti w/o Sandip Patil,
Age: 34 years, Occ : Agriculture & Household,
R/o : Waghulkheda, 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. Smt. Poonam w/o Vilas Patil,
Age : 32 years, Occ : Agriculture &
Household,
R/o. Waghulkheda, Tq. Pachora,
District Jalgaon. ...RESPONDENTS

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

:Smt. Resha Deshmukh, learned
Presenting Officer for the respondent
nos.1 to 7.

:Shri B.S.Deshmukh 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 Sau. Arti w/o Sandip Patil has applied for the post of Police Patil of Village Waghulkheda, Tq. Pachora, District Jalgaon in view of the advertisement dated 02-11-2015. She appeared for written examination and secured 38 marks out of 80. Respondent no.8 has taken objection for applicant's candidature on 05-01-2016. Respondent no.6 forwarded complaint of respondent no.8 to the applicant and asked for her reply. Accordingly, on 23-02-2016 the applicant appeared before the respondent no.6 i.e. Sub Divisional Officer, Pachora

and filed her say. 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 her from further process of recruitment. Applicant has claimed that the impugned order dated 26-02-2016 passed by respondent no.6 be quashed and set aside. Applicant has, therefore, filed this O.A.

2. Reply affidavit is filed on behalf of the respondent nos.3, 4, 6 & 7 opposing claim of the applicant. It is stated that the applicant is not residing at village Waghulkheda since last 15-20 years, and therefore, she is not eligible for being considered for the post of Police Patil.

3. Respondent no.8 also filed reply affidavit and submitted that the applicant is resident of Jai Kisan Gruh Nirman Society, Pachora. Certificate issued by the Talathi of City Pachora also shows that applicant is resident of Pachora City. Applicant has filed document of filing her nomination paper for the Grampanchayat Elections at Waghulkhede but that does not mean that she actually contested the election.

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 she is resident of Village Waghulkheda, but in fact, she resides at Pachora. Relevant observations of the Sub Divisional Officer is as under (page 50-51):

“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) मध्ये ‘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 परिस्थितीचा 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 असला पाहिजे 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 पाटील गावात असणे अधिक महत्वाचे आहे.

सदर आक्षेपाच्या अनुषंगाने स्थानिक चौकशी करून जाबजबाबासह चौकशी अहवाल सादर करण्याबाबत या कार्यालयाचे पोली निरीक्षक, पोलीस स्टेशन पाचोरा व तहसिलदार, पाचोरा यांना कळविले होते. त्यानुसार पोलीस निरीक्षक पोलीस स्टेशन पाचोरा यांनी उमेदवार श्रीमती आरती संदीप पाटील हया वाघुलखेडा येथे राहात नसून गेल्या १५-२० वर्षांपासून पाचोरा येथील जयकिसान गृहनिर्माण सहकारी सोसायटी येथे पती व सासू यांच्यासोबत राहात असल्याबाबत अहवाल सादर केलेला आहे. तहसिलदार यांचा अहवाल प्राप्त झालेला नाही.

आक्षेपकर्तीने दाखल केलेला आक्षेप, त्यासोबत दाखल केलेली कागदपत्रे, उमेदवाराने दाखल केली खुलासा व त्यासोबत दाखल

केलेले कागदपत्रे, पोलीस निरीक्षक पोलीस स्टेशन पाचोरा यांचा अहवाल व नियमातील तरतुद यांचा एकत्रितपणे विचार करता उमेदवार श्रीमती आरती संदीप पाटील हया सदरील मौजे वाघ जुलखेडा गावात राहत नसल्याबाबत दिसून येते. यास्तव त्यांना पोलीस पाटील पदासाठी अपात्र ठविण्यात येत असून सदर पदभरतीच्या पुढील प्रक्रियेतून वगळण्यात येत आहे.

(quoted as verbatim from paper book page 50-51)

4. Heard Shri Shri D.B.Thoke, learned Advocate for the applicant, Smt. Resha Deshmukh, learned Presenting Officer for the respondent nos.1 to 7 and Shri B.S.Deshmukh learned Advocate for respondent no.8. Perused memo of O.A., affidavits in reply and various documents placed on record by the parties.

5. 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 she 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 Waghulkheda, she is not residing there from 15-20 years and rather she is residing at Pachora. Therefore, she cannot be considered for the post of Police Patil.

6. 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/she 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.”

7. 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. The Sub Divisional Officer has not denied that the applicant has house property at Village Waghulkheda and that she possesses landed property at Waghulkheda. In such circumstances, conclusion of Police Inspector that applicant is not resident of Village Waghulkheda, 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 she will reside at

Village Waghulkheda itself during her tenure as Police Patil, if selected. He could have also taken undertaking to that effect and if applicant commits breach of such undertaking, necessary action can be taken against her.

8. 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 Waghulkheda, cannot be accepted as a gospel truth. Sub Divisional Officer has not waited for report from Tahsildar. 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 her 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)