

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO.332/2016

DISTRICT – JALGAON

{ Madhav s/o. Bhagwat Borse, }
{ Age: 28 years, Occ : Agriculture, }
{ R/o : Dhangar Galli, Shahapur, }
{ Taluka. Jamner, District. Jalgaon. } ...APPLICANT

V E R S U S

{ 1. The State of Maharashtra,
(Copy to be served on Presiding Officer
MAT Bench at Aurangabad) } Deleted on
20-04-2016

{ 2. The Sub Divisional Magistrate/ }
{ Sub Divisional Officer, }
{ Jalgaon, Sub Division, Jalgaon, }
{ District. Jalgaon. }

{ 3. Ananta s/o Sukadev Sushir, }
{ Age : 37 years, Occ : Agriculture, }
{ R/o. Shahapur, Taluka. Jamner, }
{ District. Jalgaon. }

{ 4. Sandip s/o Ramdas Sapkal, }
{ Age : 36 years, Occ : Agriculture, }
{ R/o. Shahapur, Taluka. Jamner, }
{ District. Jalgaon. } ...RESPONDENTS

APPEARANCE :Shri H.U.Dhage, learned Advocate for the
applicant.

:Shri D.R.Patil, learned Presenting Officer
(PO) for the respondent no.2.

:Shri S.R.Dheple, learned Advocate for
respondent no.3.

:Shri S.A.Ambilwade, learned Advocate for
respondent no.4 (**absent**).

CORAM : Hon'ble Shri B.P.Patil, Member (J)

DATE : 12th July 2017

O R A L O R D E R
[12th day of July 2017]

Applicant has challenged selection and appointment of respondent no.3 on the post of Police Patil of village Shahapur, Tq. Jamner, Dist. Jalgaon made by respondent no.2.

2. It is contention of the applicant that he is resident of Dhangar Galli, Shahapur, Tq. Jamner, Dist. Jalgaon. On 02-11-2015 respondent no.2 issued proclamation inviting application for the post of Police Patil of Village Shahapur, which is reserved for NT (C) General category. The applicant was fulfilling the necessary criteria mentioned in the proclamation therefore, he applied for the post of Police Patil of Village Shahapur. Respondent nos.3 and 4 had also applied for the said post along with others. Applicant, respondent nos.3, 4 & others appeared for the written examination held on 13-12-2015. Applicant, respondent

nos.3 and 4 declared as successful candidates and they were called for oral interview. After conducting oral interview, respondent no.2 declared final select list. Name of respondent no.3 appears at Sr.No.1 in the final select list. It is contention of the applicant that the applicant and respondent no.4 got 51 marks in the written examination while respondent no.3 got 49 marks in the written examination but in the oral examination more marks have been given to the respondent no.3. It is the contention of the applicant that respondent no.3 has passed 10th Standard examination while the applicant is M.Sc. Geography. It is the contention of the applicant that respondent no.2 has not considered the higher education qualification of the applicant while making final select list. Respondent no.3 was affiliated to a political party and is active member of the political party. He was member of Village Panchayat, Shahapur till his appointment on the post of Police Patil and it is his contention that, the respondent no.3 filed false affidavit before Sub Divisional Magistrate stating that he was not affiliated to political party. Applicant raised objection in that regard before the Sub Divisional Magistrate (respondent no.2) by filing

application dated 25-03-2016. He also made representation to the Collector, Jalgaon on 31-03-2016 but the respondent no.2 has not considered his objection and has rejected his application and declared respondent no.3 as selected candidates for the post of Police Patil and appointed him on the post accordingly. Therefore, applicant has filed application to quash and set aside the selection process conducted by the respondent no.2 and thereby declaring the respondent no.3 as selected candidate for the post of Police Patil of Village Shahapur.

3. Respondent no.2 filed affidavit in reply and contended that the written examination of the eligible candidates applied for the post of Police Patil had been conducted for 80 marks and 3 candidates who secured highest marks were called for oral interview as per G.R. dated 23-08-2011. It is contended by him that oral interview of the candidates has been conducted by the committee consisting of Sub Divisional Magistrate, Sub Divisional Police Officer, District Social Welfare Officer, Project Director, Tribal Development Department and Tahsildar. Members of the committee had given marks to the candidates considering personality,

confidence, depth of their answers, situation handling capacity, local conditions knowledge, duties of Police Patil etc. Thereafter, candidate who secured highest marks in written and oral examination has been declared as selected candidate for the post of Police Patil of Village Shahapur. Respondent no.3 had secured highest marks in aggregate i.e. in written and oral examination, and therefore, he was declared as selected candidate and accordingly appointment letter had been given by the respondent no.2 to the respondent no.3. It is the contention of the respondent no.2 that recruitment process was transparent. It is his contention that recruitment process has been conducted as per the provisions of Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other conditions of Service) Rules, 1968. Objections of the applicant had been decided accordingly. It is the contention of respondent no.2 that there is no illegality in the recruitment process, and therefore, he prayed to reject the O.A.

4. Respondent no.3 has contended that the eligibility for appointment on the post of Police Patil is provided under

Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other conditions of Service) Rules, 1968. It is his contention that he does not belong to any political party. He has admitted that he was a member of Gram Panchayat, Shahapur but he tendered his resignation on 23-03-2016 and the said resignation was accepted on 30-03-2016. According to him, on the date of his appointment, he was not member of any local body and he was not holding any post in government or semi-government organization. It is his contention that recruitment process has been conducted by the respondent no.2 in a free and transparent manner. He has been appointed as Police Patil on 13-04-2016 but the said order has not been challenged by the applicant. It is his contention that he secured highest marks in aggregate i.e. in written and oral examination, and therefore, he has been selected on the post of Police Patil on merit and there is no illegality in his selection and appointment. Therefore, he prayed to dismiss the O.A.

5. Heard Shri H.U.Dhage, learned Advocate for the applicant, Shri D.R.Patil, learned Presenting Officer (PO) for

the respondent no.2 and Shri S.R.Dheple, learned Advocate for respondent no.3. None appeared for respondent no.4.

6. Learned Advocate for the applicant has submitted that a proclamation/notification inviting applications for the post of Police Patil of village Shahapur and other villages has been published on 02-11-2015. He has submitted that one of the criteria for eligibility for appointment as Police Patil is that the candidate should not be affiliated to any political party, and he has to file affidavit to that effect before the concerned authorities at the time of verification of the documents. He has attracted my attention towards clause 6 of the said advertisement. He has submitted that respondent no.3 was a member of the Gram Panchayat Shahapur and he was elected as a member on the support of political party. He has submitted that respondent no.3 was affiliated to political party but he has submitted false affidavit before the respondent no.2 on 11-01-2016 stating that he is not affiliated to any political party. He has submitted that, respondent no.3 has suppressed the fact that he was member of Gram Panchayat Shahapur and he was affiliated

to political party. Therefore, the applicant has filed objections dated 25-03-2016 and 31-03-2016 but the respondent no.2 has not considered his objections and rejected his applications and declaring respondent no.3 as selected candidate. He has submitted that selection and appointment of the respondent no.3 as Police Patil is in contravention of the conditions mentioned in the proclamation/notification. Therefore, he prayed to quash selection and appointment of respondent no.3 by allowing the O.A.

7. Learned P.O. as well as the learned Advocate for respondent no.3 have submitted that the applicant has not produced any document before the Sub Divisional Magistrate (respondent no.2) as well as before this Tribunal to show that on the date of filing of the application for the post of Police Patil, the respondent no.3 was affiliated to any political party. He has not produced any document to show that respondent no.3 was an active member of any political party and contested the election of Gram Panchayat as a candidate of political party. They have submitted that the respondent no.3 was working as a

member of the Gram Panchayat Shahapur at the time of filing application for the post of Police Patil but he tendered his resignation for the said post by filing the application dated 23-03-2016 and his resignation was accepted on 30-03-2016. They have submitted that the respondent no.3 has filed affidavit dated 11-01-2016 stating that he was not affiliated to any political party and statement made by him on oath is according to the facts and he never misled the respondent no.2. They have submitted that on the date of appointment order dated 13-04-2016 the respondent no.3 was not affiliated to any political party and he was not a member of Gram Panchayat. Therefore, respondent no.2 has rightly issued appointment order in favour of respondent no.3. They have submitted that there is no illegality in the recruitment process conducted by the respondent no.2, and therefore, they prayed to dismiss the O.A.

8. Learned Advocate for the respondent no.3 has placed reliance on the judgment in the case of **Vijay Kumar Mishra and Others V/s. High Court of Judicature at Patna and Others** reported in [(2016) 9 Supreme Court

Cases 313]. He has also placed reliance on the judgment of Maharashtra Administrative Tribunal at Nagpur/ Mumbai / Aurangabad in **O.A.No.285/2016** in the matter of **Manoj Gunwant Bhat & Ors. V/s. State of Maharashtra & Ors.** decided on 03-01-2017, and in **O.A.No.109/2016** in the matter of **Shraddha d/o Sanjay Thakre V/s. State of Maharashtra & Ors.** decided on 23-12-2016, and in **O.A.No.318/2016** in the matter of **Shri Nivrutti s/o Eknath Wagh V/s. State of Maharashtra & Ors.** decided on 30-01-2017

9. On going through the documents on record, it reveals that the respondent no.2 issued proclamation/notification dated 02-11-2015 inviting application from eligible candidates for the post of Police Patil for several villages in Jamner Taluka including village Shahapur. Said proclamation/notification is at page 11 to 21. Conditions regarding eligibility of the candidates are mentioned in the proclamation. Clause 6 provides that candidate should not be affiliated to any political party and he should file affidavit in that regard on the stamp paper having denomination of Rs.100/- at the time of verification of the documents. The

applicant, respondent no.3 and respondent no.4 alongwith others appeared for written examination. Applicant and respondent no.4 secured 51 marks each in the written examination while respondent no.3 secured 49 marks in the written examination. They were called for oral interview. Oral interview had been conducted by the committee consisting of Sub Divisional Magistrate, Sub Divisional Police Officer, District Social Welfare Officer, Project Director, Tribal Development Department and Tahsildar. Members of the committee had given marks to the candidates considering personality, confidence, depth of their answers, situation handling capacity, knowledge of local conditions, duties of police patil etc. After considering the marks obtained by the candidates in the written test and oral interview, selection of the respondent no.3 has been made on the post of Police Patil of village Shahapur, Tq. Jamner, Dist. Jalgaon as he had secured highest marks in aggregate (in written and oral tests) amongst the candidates appeared in the selection process. Said fact is not disputed by the applicant. The applicant raised objection before the Sub Divisional Magistrate that the respondent no.3 has filed false affidavit dated 11-01-2016

stating that he was not affiliated to political party, therefore, applicant prayed to cancel selection of respondent no.3 for the post of Police Patil of village Shahapur. Objection was rejected by the respondent no.2 by the impugned order dated 31-03-2016. The applicant has not produced any document before the Sub Divisional Magistrate (respondent no.2) showing that the respondent no.3 was affiliated to political party. In the absence of any supporting document, contention of the applicant is not acceptable. The applicant has not produced any document before the Tribunal to show that on the date of filing application respondent no.3 was affiliated to political party, and therefore, he was not eligible for appointment. Not a single document has been produced by the applicant to show that the statement made by the respondent no.3 on oath is false. Therefore, in the absence of documents and evidence in that regard, contention of the applicant cannot be accepted.

10. Respondent no.2 has rightly rejected the objection of the applicant as no document has been produced before him by the applicant to substantiate his contentions.

Merely because respondent no.3 was a member of Gram Panchayat, at the time of filing application, that cannot be a sufficient ground to disqualify him for the post of Police Patil as proclamation/notification does not prohibit a candidate, who works as member of Gram Panchayat to apply for the post of Police Patil. Therefore, in the absence of specific terms and conditions in that regard, contention of the applicant cannot be accepted.

11. I have gone through the above cited decisions referred by the learned Advocate on behalf of the respondent no.3. Facts in this case are different than the cases referred by him. Therefore, the same are not much useful to the respondent no.3 in this case.

12. Considering the abovesaid discussion and the fact that the applicant has not produced documents to show that the respondent no.3 was affiliated to any political party on the date of filing the application or on the date of his appointment as Police Patil. Respondent no.2 has rightly declared respondent no.3 as selected candidate as he had secured highest marks in aggregate i.e. in written and oral examinations. There is no irregularity in the recruitment

process conducted by the respondent no.2. Therefore, no interference is required in the impugned order issued by the respondent no.2 declaring respondent no.3 as selected candidate and appointing him on the post. There is no merit in the O.A. Hence, O.A. deserves to be dismissed. In view thereof, O.A. stands dismissed with no order as to costs.

(B. P. Patil)
MEMBER (J)

Place : Aurangabad
Date : 12-07-2017.