

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.502/2016**

DISTRICT – AURANGABAD

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Vimal d/o Sheshrao Chapte @  
Vimal w/o Arjun Ghuge,  
Age: 25 years, Occ : Household,  
R/o : Dhondkheda,  
Tq. & Dist. Aurangabad. ...APPLICANT

V E R S U S

1. The State of Maharashtra,  
Through Secretary,  
Home Department,  
Mantralaya, Mumbai.
2. The Collector Aurangabad  
at Aurangabad.
3. The Sub Divisional Officer,  
Aurangabad, Tq. & Dist. Aurangabad.
4. Sanjay s/o Raghoba Ghuge,  
Age : Major, Occ : Agri.,  
R/o. Dhondkheda,  
Tq. & Dist. Aurangabad.
5. Sainath s/o Dadarao Ghuge,  
Age : Major, Occ : Agri.,  
R/o. Dhondkheda,  
Tq. & Dist. Aurangabad. ...RESPONDENTS

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APPEARANCE :Shri N.P.Bangar, learned Advocate for  
the applicant.

:Shri M.S.Mahajan, learned Chief  
Presenting Officer (CPO) for the  
respondent nos.1 to 3.

Shri K.B.Jadhav, learned Advocate for  
respondent no.4.

None appears for respondent no.5.

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CORAM : Hon'ble Shri J.D.Kulkarni, Member (J)  
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DATE : 9<sup>th</sup> January, 2017  
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**J U D G M E N T**  
**[Delivered on 9<sup>th</sup> January, 2017]**

Applicant has challenged the order dated 23-05-2016 passed by the respondent no.3 i.e. Sub Divisional Officer, Aurangabad, whereby applicant has been disqualified for the post of Village Police Patil on the ground that he is not resident of the village Dhondkheda. Respondent no.3 has issued order dated 25-05-2016 in favor of respondent no.4, who was placed at the bottom of the merit list. It is prayed that the said order be stayed since at the time of filing of O.A. order was not issued in favor of respondent no.4.

2. Applicant and respondent no.4 i.e. Sanjay Raghoba Ghuge alongwith other candidates had applied for the post of Police Patil of village Dhondkheda, Tq. & Dist. Aurangabad in view of proclamation dated 22-01-2016. Examination was held on 28-02-2016. Applicant has secured highest marks in the said examination.

3. Respondent no.5 Sainath Dadarao Ghuge who is not resident of Dhondkheda filed complaint against the applicant. Though applicant was topper in the merit list, on complaint of respondent no.5, she was not given appointment order, and instead, respondent no.4, who stood lowest in merit, has been appointed. According to the applicant, the order of selection of the respondent no.4 and order of disqualification of the applicant are illegal. Hence, she has filed the present O.A.

4. Respondent nos.2 and 3 have filed reply affidavit and submitted that on the complaint received from respondent no.5, an enquiry was conducted. In the said enquiry, it was found that the applicant is not residing at village Dhondkheda, and therefore, she was not considered for the post of Police Patil. Since the respondent no.4 stood next in order of merit, and also is resident of village Dhondkheda, he was appointed on the post.

5. Respondent no.4 has also filed affidavit in reply and justified his selection to the post of Police Patil.

6. Heard Shri Shri N.P.Bangar, learned Advocate for the applicant, Shri M.S.Mahajan, learned Chief Presenting Officer (CPO) for the respondent nos.1 to 3,

and Shri K.B.Jadhav, learned Advocate for respondent no.4.

7. Perused memo of O.A. affidavits in reply and various documents placed on record by the parties.

8. According to the learned C.P.O. enquiry was conducted by the Sub Divisional Officer as regards complaint against the applicant to the effect that applicant is not resident of village Dhondkheda. In the said enquiry, it was noticed that the applicant is not resident of village Dhondkheda, and therefore, she was disqualified. Enquiry report has been placed on record at Annexure A-5 (paper book page 48-50 both inclusive). On perusal of the said report, it seems that one Sainath Dadarao Ghuge i.e. respondent no.5 had filed complaint against the applicant. Said respondent no.5 has neither caused his appearance before the Tribunal nor resisted the O.A.

9. From the report, it seems that the Sub Divisional Officer, Aurangabad has totally relied upon the statement and some documents filed by respondent no.4 i.e. Sainath Ghuge. However, said report is self-contradictory. It is mentioned in the report that Shri Sainath Ghuge has not filed any documentary evidence to show that the applicant is not resident of village Dhondkheda. On the contrary, it seems that the

applicant has filed certificate of the Sarpanch of Gram Panchayat Dhondkeda and affidavit of statement showing signature of 63 villagers on a bond paper of Rs.100/- to show that the applicant is resident of Village Dhondkheda.

10. It is true that in order to given appointment to a person on the post of Police Patil, it is necessary for the competent authority to take into consideration the fact that such candidate is resident of that village and that he/she is well-conversant with the situation in the village, and that, he/she must have some landed property in the village. It seems that the applicant has produced some documents to show her residence at Village Dhondkheda but the same were not considered properly, and merely, on the statement given by one Sainath Ghuge, Sub Divisional Officer, seems to have come to the conclusion that applicant is not resident of the village. In my opinion, enquiry conducted by the applicant is not detailed one. He should have recorded statements of the villagers and shall have also considered documentary evidence submitted by the applicant as regards her residence. Perusal of the enquiry report, therefore, shows that the Sub Divisional Officer, Aurangabad has not properly applied his mind while coming to the conclusion that the applicant is not resident of village Dhondkheda.

11. Learned Advocate for the applicant admits the fact that the respondent no.4 has already been appointed as Police Patil, however, it is submitted that such appointment is subject to the decision of proper enquiry to be conducted by the Sub Divisional Officer.

12. In view of the discussion in the foregoing paragraphs, I pass following order:

**ORDER**

- (i) O.A. is partly allowed.
- (ii) Order of Sub Divisional Officer, Aurangabad dated 23-05-2016 disqualifying the applicant for the post of Police Patil is quashed and set aside.
- (iii) In view of the discussion in the foregoing paragraphs, Sub Divisional Officer, Aurangabad i.e. Respondent no.3 is directed to make detailed enquiry as to whether the applicant is resident of village Dhondkheda or not.
- (iv) While conducting such enquiry, full opportunity of hearing shall be given to the applicant and respondent no.4.

- (v) Such enquiry shall be completed within 3 months from the date of this order and result therefore shall be communicated in writing to the applicant as well as the respondent no.4.
- (vi) In case, such enquiry goes in favor of the applicant, appointment order in favor of the applicant may be issued by cancelling order of appointment of the respondent no.4.
- (vii) In the circumstances, there shall be no order as to costs.

**(J. D. Kulkarni)**  
**MEMBER (J)**

**Place : Aurangabad**  
**Date : 09-01-2017.**