

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.848/2018

DISTRICT: DHULE

Deepak s/o. Dharma Shinde,
Age : Major, Occu. : Nil,
R/o: At Post : Chaugاون,
Tq. Dhule, Dist. Dhule.

...APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through its Secretary,
Revenue Department,
Mantralaya, Mumbai – 32.
- 2) The Collector,
Dhule.
- 3) The Sub Divisional Magistrate,
Dhule.
- 4) Shri Krishna Daulat Sonawane,
Age : Major, Occ : Nil,
R/o. At Post Hingane, Chaugاون,
Dist. Dhule.

...RESPONDENTS

APPEARANCE :Ku. Rebecah Daniel, Advocate holding for
Shri S.B.Talekar, Advocate for the
Applicant.

:Smt. M.S.Patni, Presenting Officer for
the respondent nos.1 to 3.

:Shri S.S.Shaikh, Advocate for the
Respondent no.4.

CORAM : B. P. Patil, Acting Chairman

Delivered on : 14-10-2019

ORAL ORDER

1. The applicant has challenged the order dated 25-10-2018 issued by the respondent no.3 who is the Chairman of the selection committee of the Police Patil of Village Hingane disqualifying the applicant from the recruitment process of Police Patil of Village Hingane, Tq. & Dist. Dhule by filing the present O.A. He has also challenged the recruitment process started by the respondent no.3 by issuing advertisement no.02/2018, dated 03-11-2018 and prayed to quash the set aside the same.

2. The applicant is resident of Village Chaugاون, Tq. & Dist. Dhule. On 14-08-2018, the respondent no.3 published an advertisement no.01/2018 inviting the applications of the aspiring eligible candidates for appointment on the post of Police Patil in different villages of Sub Division Dhule including the post of Police Patil of Village Hingane, Tq. & Dist. Dhule, which was reserved for open category. Pursuant to the advertisement, the applicant applied for the post of Police Patil of Village Hingane by filing online application and attached the required documents. The applicant and other eligible

candidates were called upon to appear for written examination conducted by respondent no.3. Accordingly, the applicant appeared for written examination. He secured 75 marks out of 100 marks. Since he secured 75 marks, he came to be selected on the post of Police Patil of Village Hingane from open category.

3. Subsequently, the complaints came to be filed against his selection on the post of Police Patil by two persons, namely, Smt. Sarla Uttam Bhim and Shri Krishna Daulat Sonawane alleging that the applicant is not permanent resident of Village Hingane for which he has been selected on the post of Police Patil as per clauses prescribed in the advertisement. It is their contention that the applicant has not satisfied the required eligibility criteria of the recruitment rules and advertisement. The applicant thereafter preferred representation dated 17-10-2018 to the Sub Divisional Magistrate alongwith documents showing that he is permanent resident of Village Chaugaon, Tq. & Dist. Dhule, which is one of the villages of Group Gram Panchayat, Chaugaon (Hingane). He produced documents in support of his contentions. An enquiry committee was constituted to verify the truth in the allegations made in the

complaints. The committee conducted enquiry and recorded statements of the complainants as well as the applicant on 17-10-2018. Thereafter, the respondent no.3 being Chairman of the Police Patil Recruitment Committee, passed the order dated 25-10-2018 and disqualified the applicant from recruitment process of Police Patil of Village Hingane without considering the documents produced by the applicant. It is contention of the applicant that the impugned order is illegal and in contravention of the provisions of the Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1968 (hereinafter referred to as "Order of 1968" for short).

4. It is his contention that in view of Rule 3(c) of the Order of 1968 the person who is appointed as Police Patil should be a resident of the Village or one of the Villages of the Group Gram Panchayat. It is his contention that the respondent no.3 had not considered the said aspect with proper perspective and passed the impugned order dated 25-10-2018 disqualifying the applicant from the recruitment process of Police Patil of Village Hingane. Therefore, the applicant has filed the present O.A.

challenging the impugned order. During the pendency of the O.A., respondent no.3 issued the advertisement no.02/2018 dated 03-11-2018 and invited applications of the eligible candidates for filling the post of Police Patil of Village Hingane. Therefore, the applicant has challenged the said recruitment process and prayed to quash the advertisement dated 03-11-2018 and the recruitment process started by the respondent no.3 in that regard.

5. Respondent no.3 has filed an affidavit in reply and resisted the contentions of the applicant. He has admitted the fact that the applicant is permanent resident of Village Chaugaon. Village Chaugaon is one of the villages of Group Gram Panchayat, Chaugaon (Hingane), Tq. & Dist. Dhule. It is his contention that Village Chaugaon and Village Hingane are different Villages and separate posts of Police Patil are created for Village Chaugaon and Village Hingane. He has admitted the fact that the applicant applied for the appointment on the post of Police Patil of Village Hingane and participated in the recruitment process. He has admitted the fact that on the complaint filed by Smt. Sarla Uttam Bhim and Shri Krishna Daulat Sonawane, the enquiry was initiated and enquiry committee was

appointed. The committee prepared the Panchnama at Village Hingane in presence of the Villagers, applicant and the complainants from which it is crystal clear that the applicant is not resident of Village Hingane. It is his contention that as per the information filled up by the applicant in the application form and the documents produced by the applicant and report of enquiry, the applicant is not resident of Village Hingane and he is resident of Village Chaugاون. It is his contention that as per the provisions of Rule 3(c) of the Order of 1968, no person shall be eligible for being appointed as Police Patil, who is not a resident of village concerned. As the applicant is not resident of Village Hingane, respondent no.3 passed the impugned order dated 25-10-2018 and disqualified the applicant from the recruitment process of Police Patil of Village Hingane. It is his contention that there is no illegality in the impugned order and the respondent no.3 has passed the order in view of the provisions of Order of 1968. It is his contention that thereafter the recruitment process for the appointment on the post of Police Patil of Village Hingane has been conducted and Shri Krushna Daulat Sonawane has been appointed as Police Patil of the Village Hingane by the respondent no.3 on 30-11-2018.

Shri Krushna Daulat Sonawane is working on the said post and therefore he prayed to dismiss the O.A. accordingly.

6. Respondent no.4 filed his affidavit in reply and resisted the contentions of the applicant. It is his contention that the applicant has suppressed the material facts while approaching this Tribunal. Applicant has not approached this Tribunal with clean hands. Therefore, he has prayed to dismiss the O.A. It is his contention that he has been appointed by order dated 30-11-2018 as Police Patil of Village Hingane after following due selection process. He is accordingly discharging work of Police Patil of Village Hingane since then.

7. It is his contention that Village Hingane and Chaugaon are different villages and there are different posts of Police Patil at Village Hingane and Village Chaugaon. Respondent no.3 issued advertisement for the appointment on the post of Police Patil of Village Hingane and Village Chaugaon. The post of Police Patil has been advertised for the Village Hingane and not for Group of Villages. In the advertisement, it has been specifically mentioned that the candidate must be permanent resident of Village for which he is applying for appointment on the post of Police Patil. It

is his contention that the applicant is resident of Village Chaugaon and he is not resident of Village Hingane. Therefore, he is not eligible for appointment on the post of Police Patil of Village Hingane. Therefore, respondent no.3 has rightly disqualified the applicant from recruitment process of Police Patil of Village Hingane in view of the provision of Rule 3(c) of Order of 1968. It is his contention that he has been appointed as Police Patil of Village Hingane by the recruitment committee after following due selection process. There is no illegality in the same. Therefore, he has prayed to reject the O.A.

8. The applicant has filed affidavit in rejoinder to the affidavit filed by the respondent no.3 and contended that the Village Hingane is part of Group Gram Panchayat Chaugaon (Hingane). Therefore, his candidature ought to have been considered by respondent no.3 for appointment on the post of Police Patil of Village Hingane. Therefore, he has prayed to allow the O.A.

9. I have heard Ku. Rebecah Daniel, Advocate holding for Shri S.B.Talekar, Advocate for the Applicant, Smt. M.S.Patni, Presenting Officer for the respondent nos.1 to 3 and Shri S.S.Shaikh, Advocate for the

Respondent no.4. I have perused the documents placed on record by the parties.

10. Admittedly, the respondent no.3 Sub Divisional Officer, Dhule was Chairman of the Recruitment Committee for selection of Police Patil. He issued advertisement no.01/2018 dated 14-08-2018 inviting applications from the aspiring eligible candidates for appointment on the post of Police Patil in different villages under Sub Divisional Officer, Dhule including Village Hingane. Admittedly, separate applications were invited for appointment of Police Patil of Village Chaugaon and Hingane. There is no dispute about the fact that in pursuance of the said advertisement the applicant filed online application and participated in the recruitment process. Admittedly, the applicant appeared for written examination and secured 75 marks out of 100 marks. There is no dispute about the fact that after written examination, one Smt. Sarla Uttam Bhim and Shri Krishna Daulat Sonawane filed complaints with respondent no.3 raising objection regarding eligibility of the applicant to participate in the recruitment process on the ground that the applicant is not resident of Village Hingane and he is permanent resident of Village Chaugaon which comes

under Group Gram Panchayat Chaugاون (Hingane) including Village Hingane.

11. Admittedly, thereafter the respondent no.3 and the enquiry committee made enquiry in the allegations made in the complaints. Enquiry Committee visited the Village Hingane in presence of the villagers, complainants and the applicant. It had given an opportunity of hearing to the applicant and others and thereafter respondent no.3 passed the impugned order dated 25-10-2018 disqualifying the applicant from the recruitment process of Police Patil of Village Hingane. There is no dispute about the fact that while submitting the application, the applicant has mentioned in the application form that he is resident of Village Chaugاون, Tq. & Dist. Dhule and he has produced documents in support of his claim. Admittedly, the respondent no.3 disqualified the applicant in view of the provisions of Rule 3(c) of the Order of 1968.

12. There is no dispute about the fact that the respondent no.3 thereafter issued another advertisement dated 03-11-2018 bearing advertisement no.02/2018 and started recruitment process for filling up posts of Police Patil of Village Hingane, Tq. & Dist. Dhule. In that recruitment

process the respondent no.4 has been selected by the respondent no.3 as Police Patil of Village Hingane and thereafter he has been appointed on the said post by order dated 30-11-2018 and since then respondent no.4 is working on the said post.

13. Learned Advocate for the applicant has submitted that there is Group Gram Panchayat for Village Chaugaon (Hingane). Village Hingane and Chaugaon are some of the villages of Group Gram Panchayat Chaugaon (Hingane). She has submitted that as per the advertisement the person applying for the post of Police Patil must be resident of the said village. She has submitted that as per Rule 3(c) of the Order of 1968, the candidate applying for the post of Police Patil must be resident of the Village or one of the Villages in case of Group Gram Panchayat. She has argued that as the applicant is resident of Village Chaugaon which is one of the villages of Group Gram Panchayat Chaugaon (Hingane), he is eligible for appointment on the post of Police Patil of Village Hingane. She has argued that the respondent no.3 has not considered the said aspect while deciding the complaint filed by the complainants Smt. Sarla Uttam Bhim and Shri Krishna Daulat Sonawane and

wrongly disqualified the applicant from the recruitment process of Police Patil of Village Hingane. She has submitted that the respondent no.3 ought to have considered the said aspect while deciding the complaint filed by the above said persons. She has argued that the case of the applicant is squarely covered by the decision of the Hon'ble High Court of Judicature of Bombay Bench at Nagpur in case of **Arun s/o. Tukaram Patil V/s. State of Maharashtra & Ors.** reported in [1999 CJ (Bom) 72].

14. Learned P.O. as well as the learned Advocate for respondent no.4 have submitted that the applicant is resident of Village Chaugaon. They have argued that as per the advertisement no.01/2018 dated 14-08-2018, respondent no.3 invited applications of the eligible candidates for appointment on the post of Police Patil of different villages including Village Hingane and Chaugaon. They have submitted that there are separate posts of Police Patil of Village Hingane and Village Chaugaon. They further argued that as per the advertisement the candidates applying for the post of Police Patil of a particular village must be resident of that village. Accordingly, conditions are mentioned in the advertisement which is at paper book

page 24 and 26 at Sr. No.3 and 8. They have submitted that the provision of Rule 3(c) of the Order of 1968 also provides that no person shall be eligible for being appointed as Police Patil who is not resident of Village concerned or one of the villages in Group of Villages to which the appointment is to be made. They have submitted that no post of Police Patil for Group Gram Panchayat Chaugaon (Hingane) has been advertised and posts of Police Patil of Village Chaugaon and Hingane had been advertised separately. The applicant who is resident of Village Chaugaon is not eligible for appointment on the post of Police Patil of Village Hingane. Respondent no.3 has rightly considered the provision of Rule 3(c) of the Order of 1968 and passed the impugned order. Therefore, they supported the impugned order dated 25-10-2018.

15. They have further submitted that the respondent no.3 issued advertisement no.02/2018 dated 03-11-2018 for filling the post of Police Patil of Village Hingane and after due process they have selected the respondent no.4 and appointed him by order dated 30-11-2018. They have submitted that the respondent no.4 is working as Police Patil of Village Hingane since then. They have submitted

that the impugned order has been issued in view of the provision of the Order of 1968 and there is no illegality in the same. Therefore, they have supported the impugned order and prayed to dismiss the O.A.

16. On perusal of the documents on record, it is crystal clear that respondent no.3 issued advertisement no.01/2018 dated 14-08-2018 and invited applications of the eligible candidates for appointment on the post of Police Patil of different villages in Sub Division, Dhule including Village Chaugaon and Hingane. The advertisement is at paper book page 16 to 30. From perusal of said advertisement, it reveals that the separate post of Police Patil are created at Village Chaugaon and Hingane and applications were invited from the eligible candidates for appointment on the post of the Police Patil of Village Chaugaon and Hingane which is evident from page 20 of the O.A. At page 24 to 26 there are condition no.3 and 8 respectively wherein it has been mentioned that the candidate must be permanent resident of the concerned Village.

17. The Government has framed rules regarding recruitment, pay, allowances and other conditions of

service of Police Patil, namely, the Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1968. Rule 3 provides regarding eligibility of candidates for appointment on the post of Police Patil, which is reproduced below (paper book page 77-78):

“3. Eligibility for appointment :- No person shall be eligible for being appointed as a police-patil, who –

(a) is under twenty-five years or over forty five years of age at the time of appointment;

(b) has not passed the VI standard examination in a primary school or who does not possess equivalent or higher educational qualification;

Provided that, when no suitable candidates with this minimum qualification are available, the competent authority may appoint a candidate who has passed at least the IV standard examination in a primary school;

(c) is not a resident of the village concerned;

(d) is physically unfit to perform the duties of a police patil;

Provided that, the candidate may be required by the competent authority to undergo a

medical examination to determine his physical fitness, if deemed necessary;

(e) is adjudged by the competent authority after a summary inquiry to be of bad character, or has, in the opinion of that authority, such antecedents as render him unsuitable for employment as Police patil;”

Rule 3(c) specifically provides that no person shall be eligible for appointment on the post of Village Police Patil who is not resident of the village concerned.

18. Not only this but it would be material to note here that the Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1986 has been amended as per the Maharashtra Village Police-patils (Recruitment, Pay, Allowances and other conditions of service) (Amendment) Order, 1976 and following amendment has been made regarding eligibility for appointment which provides as follows:

“1. Eligibility for appointment :- No person shall be eligible for being appointed as a police-patil, who –

(a) Is under twenty-five years or over forty five years of age at the time of appointment;

(b) Has not passed the VI standard examination in a primary school or who does not possess equivalent or higher educational qualification;

(c) Is not a resident of the village concerned;

(d) Is physically unfit to perform the duties of a police patil;

Provided that, the candidate may be required by the competent authority to undergo medical examination to determine his physical fitness, if deemed necessary;

(e) Is adjudged by the competent authority after a summary inquiry to be of bad character or has, in the opinion of that authority, such antecedents as render unsuitable for employment as Police patil;”

(2) Notwithstanding anything contained in paragraph (a), (b) and (c) of sub-clause (1), if no candidate, within the age limit mentioned in the said sub-clause (a), or possession the minimum academic qualifications mentioned in the said sub-clause (b) or residing in the village or one of the villages in the case of a group of villages for which the appointment is to be made as mentioned in the said sub-clause (c), is available, then the competent authority (not being the State Government) may, with the previous approval of

the Divisional Commissioner, appoint any suitable candidate in relaxation of the said provision or provisions, as the case may be.

(Mah. Shasan Rajpatra of 7-10-1976 pt. IV-B pp.1147-48)”

19. Applicant is permanent resident of Village Chaugaan but he has applied for appointment on the post of Police Patil of Village Hingane. Admittedly, he is not resident of Village Hingane. The respondent no.3 made enquiry in the complaints filed by Smt. Sarla Uttam Bhim and Shri Krishna Daulat Sonawane. He had given an opportunity of hearing to the applicant and others. After considering the documents submitted by complainants and applicant and enquiry report of the committee, he passed the impugned order dated 25-10-2018 and disqualified the applicant from the recruitment process of Police Patil of Village Hingane as he is not eligible to be appointed on the post of Police Patil in view of the provision of Rule 3(c) of the Order of 1968. Respondent no.3 has passed the impugned order in view of the provisions of the said Order of 1968 and in view of amended Order of 1976. There is no illegality in the impugned order. Therefore, no question of interference in the impugned order arises.

20. Since nobody was qualified for appointment on the post of Police Patil of Village Hingane, respondent no.3 issued advertisement no.02/2018 for appointment of Police Patil for Village Hingane on 03-11-2018. Respondent no.4 participated in the recruitment process and he has been duly selected and appointed by the respondent no.3 on the post of Police Patil of Village Hingane by order dated 30-11-2018. There is no illegality in the advertisement issued by the respondent no.3 on 03-11-2018 and also in the appointment of respondent no.4 as Police Patil of Village Hingane. There is no just ground to quash the advertisement no.02/2018 issued by the respondent no.3 on 03-11-2018. Therefore, no relief as claimed by the applicant regarding the said recruitment process can be granted. There is no merit in the O.A. Hence, the O.A. deserves to be dismissed.

21. In view of the discussion in the foregoing paragraphs, O.A. stands dismissed with no order as to costs.

(B. P. PATIL)
ACTING CHAIRMAN

Place : Aurangabad
Date : 14-10-2019.