MAHARASHTRA ADMINISTRATIVE TRIBUNAL,MUMABI BENCH AT AURANGABAD.

DIST.DHULE.

ORIGINAL APPLICATION NO.707/2015.

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Saurabh s/o Ratnakar Bagul,
Age 18 years, Occu. Nil,
R/o Mahatmaphule Nagar,
Galli No.7, Moglai, Sakri Road,
Dhule, Dist. Dhule.

-- **APPLICANT**

VERSUS

1. The State of Maharashtra
Through its Secretary,
Home Department,
Mantralaya, Mumbai 32.

2. The Additional
Director General of Police,
Training & Special Unit,
M.S. Mumbai.

3. The Commissioner Police
Thane, Dist. Thane.

4. The Superintendent of Police,
Dhule, Dist. Dhule.

5. Abasaheb s/o Udhav Nikam,
Age Major, Occu. Nil,
R/o Deviwada, Behind Sadanand
Hotel, Ghat Road, Chalisgaon,
Dist. Jalgaon.

-- **RESPONDENTS.**

APPEARANCE : Shri D. T. Dewane, learned Advocate for the Applicant.

: Smt P.R. Bharaswadkar, learned Presenting Officer for the Respondents no. 1 to 4 ; and

: Shri Ujjwal S. Patil, learned Advocate for the Respondent no.5.

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

DATE : 24.01.2017.

JUDGMENT.
(Delivered on this 24th day of January, 2017)

1. All the parties in this O.A. have consented for deciding this matter by Single Bench in the absence of Division Bench as per Circular No.MAT/MUM/ESTT/898/2015 issued by Hon'ble Chairman, M.A.T. Mumbai dated 3.3.2015.

2. Heard Shri D. T. Devane, learned Advocate for the Applicant, Smt P.R. Bharaswadkar, learned Presenting Officer for the Respondents no.1 to 4 and Shri Ujjwal S. Patil, learned Advocate for the Respondent no.5.

3. The applicant in this O.A. has applied for the post of Police Constable for Dhule district in response to the advertisement dated

3.2.2016 and admittedly after the recruitment process was over the applicant has been kept on waiting list at sr. no.1.

4. The private Respondent no.5 also applied for the said post and he was in the select list of Dhule District. At the relevant time advertisement was also issued for the recruitment of the Police Constables in Thane District, on 2.2.2016. The respondent no.5 applied for the post of Police Constable at Dhule as well as in Thane District. It is fact that the Respondent no.5 has been selected in both the recruitment process, but he has forgiven his claim for Thane District and opted for the post of Police Constable in Dhule District.

5. It is the case of the applicant that the action on the part of Respondent no.5 to apply for the post of Police Constable from two Districts is illegal and against the guide-lines issued by the Department from time to time. The applicant is therefore, claiming that the selection of Respondent no.5 on the post of Police Constable at the establishment of Unit of Superintendent of Police at Dhule be quashed and set aside and Respondents no.1 to 4 and particularly Respondent no.4 may kindly be directed to issue appropriate directions/orders to give appointment order in favour of the

applicant on the post of Police Constable at the establishment of Unit of S.P. at Dhule and hence this original application.

6. The impugned advertisement whereby the recruitment process of Police Constables for Dhule district was initiated is dated 3.2.2016 at paper book page nos.17 to 32 (both inclusive), whereas the advertisement for recruitment process of Police Constables at Thane is dated 2.2.2016 and the same is filed at paper book page nos.33 to 48 (both inclusive).

7. The learned Advocate for the applicant has invited my attention to online guidelines issued by the Police Department. The said guidelines are at Annexure-H and is at paper book page nos.66 to 71 (both inclusive). The learned Advocate for the applicant invited my attention to Clause (iv) at paper book page no.70 of these guidelines, in which it is stated as under :-

> "(iv) **अर्ज रद्द करणे** : अर्ज भरल्यानंतर उमेदवाराला तो रद्द करावयाचा असल्यास अथवा दुस-या घटकासाठी अर्ज करावयाचा असल्यास आधी केलेला अर्ज रद्द करून पुन्हा त्या पदासाठी लागू असलेले शुल्क भरून नव्याने अर्ज करता येईल.."

7. The learned Advocate for the applicant submits that, as per these guidelines the candidate is prevented from submitting two applications. It is however, necessary to note that, the clause-(iv) of

these guidelines regarding the procedure to pay fees and the particular guideline i.e. (iv) pertains to cancellation of application. It seems that, if the applicant wants to cancel his earlier application and has to file another application for another post then he must get his earlier application cancelled and thereafter to apply for another post by paying the requisite fees. Clause (iv) of the said guidelines makes this fact further clear in which it is stated as under :-

> "(v) उमेदवार यांना पोलीस शिपाई/बॅन्डस्मन व कारागृह शिपाई अशा दोन्ही पदांसाठी आवेदन अर्ज दाखल करता येउ शकेल. त्यासाठी उमेदवारांस प्रत्येक पदासाठी नव्याने नोंदनी करून आवेदन अर्ज सादर करणे बंधनकारक आहे. (दोन्ही पदांसाठी वेगवेगळे ई-मेल आयडी तयार करून आवेदन अर्ज सादर करावेत) व दोन्ही पदांसाठी स्वतंत्ररित्या परिक्षा शुल्क आकारले जाईल."

8. The plain reading of aforesaid clause (v) shows that, if the applicant wants to file application for different posts such as Police Constables, Bandsman and Jail Peon, it is necessary for him to submit separate applications and to pay separate fees for the said candidature. The perusal of the guidelines from which the applicant has placed reliance nowhere states that the applicant shall not apply for the post for more than one district.

9. It is not known on what date these guidelines are issued and who has issued the said guidelines from the copy of the documents placed on record. Sub clause 5 of clause (i) for the said guidelines it regards special notice, which reads as under :-

"५. विशेष सूचना :- **उमेदवार यांना पोलीस शिपाई/बॅन्डस्मन व कारागृह शिपाई अशा दोन्ही पदांसाठी आवेदन अर्ज दाखल करता येउ शकेल. त्यासाठी उमेदवारांस प्रत्येक पदासाठी नव्याने नोंदणी करुन आवेदन अर्ज सादर करणे बंधनकारक आहे. (दोन्ही पदांसाठी वेगवेगळे ई-मेल आयडी तयार करुन आवेदन अर्ज सादर करावेत)**"

10. This sub-clause therefore, clearly supports that the candidate can file separate application for separate post, however, for that purpose he/she has to get earlier application cancelled. In the entire guidelines it is nowhere stated that a candidate can not apply for the similar posts for different Districts.

11. I have also perused the advertisement dated 3.2.2016 for Dhule District and advertisement dated 2.2.2016 for Thane District. In none of these advertisements it has been specifically stated that the applicant cannot apply for the recruitment process of more than one District. Though it is mentioned in clause no.26 and 25 of the respective advertisements that the candidates shall follow the guidelines issued on line.

12. The respondents no.1 & 2 in their affidavit in reply stated that on receiving the complaint from the applicant that the respondent no.5 has filed two different applications for recruitment for the post of Police Constables from two different Districts i.e. Thane and Dhule. Information was sought as to whether the Respondent no.5

was selected or not from Thane District, and Respondent no.3 informed vide letter dated 19.8.2016 that the Respondent no.5 was selected for the post of Police Constable from S.C. (Sports category), and that he had submitted application for cancellation of his selection for the said post. The respondents have also placed on record copy of the application filed by respondent no.5 and the correspondence in this regard. It is further stated that, the respondent no.5 has completed all recruitment procedure of both places and has been selected on merits and there is no clear guide-line for action to be taken for applying from two Districts.

13. The Respondents no.1,2 and 4 have also filed short affidavit on 30.11.2016 and in para no.4 of the said short affidavit in reply. It is stated as under :-

> "4. I say and submit that, as there was no clear guidance from the Government in regards to the incumbents who had applied for the post of Police Constables from two different places, the Department had forwarded the letter seeking clear guidance on this point. I further say and submit that, by letter dated 20th April, 2016 Government had clarified this issue for the recruitment of year 2014, in the same case no action had been taken and it is further directed that in the year 2014 Government allowed the incumbents who had applied for the post of Police Constables from two different places and they were selected in the service as per their merit. The copy of

letter dated 20.4.2016 is annexed herewith and marked as Exhibit X-1."

14. The letter dated 20.4.2016 issued by the Govt. of Maharashtra (Home Department) to the Additional D.I.G. M.S. Mumbai shows that, even in earlier recruitment process of 2014 the candidates applied for number of Districts and were selected and they were absorbed.

15. The learned Advocate for the applicant submits that, the respondent no.5 cannot apply from both districts i.e. Dhule & Thane, however, as already stated there is nothing on record to show that there was such embargo either in the advertisement or even in the guidelines. Admittedly, the respondent no.5 has cleared the competative tests for recruitment to the post of Police Constable in both the Districts and his name appeared for the list of selected candidates in both the Districts. He has given option for appointment in Dhule District. I do not find any illegality in exercising such option by respondent no.5.

16. The learned Advocate for the applicant submits that, the respondent no.5 has suppressed that fact that he has applied for

posts from two districts. The Respondent no.5 has filed his affidavit on record and denied these allegations. There is nothing on the record to show that, the respondent no.5 has exercised any fraud or has mislead the authorities or that he has committed any illegality. In such circumstances, I do not find any merits in the O.A.

17. The learned Advocate for the applicant has invited my attention to one order passed in OA No.309/2010 by this Tribunal on 8.7.2010. In the said case some information was suppressed, so is not the fact here. None of the parties have placed on record the recruitment rules for the post of Police Constable and therefore, it cannot be said that, there was bar for making application for the recruitment of the post of Police Constable in different Districts simultaneously. As already stated the guidelines on which the applicant is relying also specifically does not refer to the fact that, the candidate can not apply in different districts simmultaneously for the recruitment process.

18. Learned Advocate for the Respondent no.5 submits that, even though he has been selected for the post of Police Constable the respondent authority is not issuing the order in his favour due to pendency of this O.A. In fact, there was no stay for issuing order in favour of Respondent no.5 and it was only mentioned that, his

application will be subject to outcome of this O.A. Since the O.A. is being disposed of the Respondents will be at liberty to issue appointment order in favour of Respondent no.5.

19. In the result, there is no merit in the O.A. Hence the following order.

ORDER.

i) The original application is dismissed.

ii) No order as to costs.

MEMBER (J)

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