MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 214/2015

Suresh S/o Digambar Paraskar,
Aged about 29 years, Occ. Nil,
R/o Varud, Post Loni (Gavali), Tq. Mehkar,
Dist. Buldhana.

Applicant.

Versus

1) State of Maharashtra through Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai -32.

2) Divisional Commissioner,
Amravati Division, Amravati.

3) Collector, Buldhana.

4) Tahsildar, Mehekar, Tq. & dist. Mehkar. **Respondents**

ORIGINAL APPLICATION NO. 215/2015

Jagdish S/o Pralhad Tayade,
Aged about 24 years, Occ. Nil,
R/o Mola, Tq. Mehkar,
Dist. Buldhana.

Applicant.

Versus

1) State of Maharashtra through Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai -32.

2) Divisional Commissioner,
Amravati Division, Amravati.

3) Collector, Buldhana.

4) Tahsildar, Mehekar, Tq. & dist. Mehkar. **Respondents**

ORIGINAL APPLICATION NO. 216/2015

Paramand S/o Shripat Ingle,
Aged about 34 years, Occ. Nil,
R/o Wadada, Tq. Mehkar,
Dist. Buldhana.

Applicant.

Versus

1) State of Maharashtra through Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai -32.

2) Divisional Commissioner,
Amravati Division, Amravati.

3) Collector, Buldhana.

4) Tahsildar, Mehekar, Tq. & dist. Mehkar.

5) Tahsildar, Buldhana, Tq. & dist. Buldhana.

6) Tahsildar, Chikhali, Tq. & dist. Buldhana.

7) Tahsildar, Lonar, Tq. & dist. Buldhana.

8) Tahsildar, Sindhkhed- Raja, Tq. & Dist. Buldhana. **Respondents**

S/ Shri A.Z. Mirza, R. Karode, Poonam Moon, Advs. for the applicants.

Shri P.N.Warjurkar, P.O. for the respondents.

Coram :- Hon'ble Shri S.S. Hingne, Member (J).

Dated :- 20-01-2016

COMMON ORDER -

The common question i.e. "preference to the heirs of the Ex-kotwal" in appointment is involved in all these O.As. The respondents are one of the same. Consequently, the O.As. are decided by the common order.

2. The Collector, Buldhana issued proclamation on 01-04-2015 to fill up the post of 185 Kotwal of various villages of different Talukas in the District. The SDOs of respective Sub Divisions being the Chairman of the Selection Committee issued the proclamations on 13-4-2015 laying down the programme of the process of appointment of Kotwal. The applicants have challenged the process on the ground that in some of the proclamations the term is stipulated of giving the preference to the sibling of Ex-kotwal, but no such stipulation is made by other SDOs. in their proclamations. The grievance of the applicants is that there should have been uniformity in the process and there cannot be different rules of recruitment for the same post. Consequently, they filed these O.As.

3. 16 Sub Divisions, 13 Talukas and 525 Talathi sazas are in existence in the Buldhana district. The posts of Kotwal were vacant in 185 sazas. The proclamations were issued. There is a stipulation in the prescribed application provided by Tahsildar, Chikhali laying the Clause-8 ''उमेदवार कोतवालाचे वारस आहे काय ? असल्यास तपशील''.

4. In the proclamation of Lonar Taluka the Clause-6 is as under :-

''कोतवालांच्या वारसास नियमानुसार प्राधान्य देण्यात येईल''

5. The next column no.7 of documents to be submitted with application reference is as under –

''कोतवालांचे वारस असल्यास त्याबाबतचे आवश्यक पुरावे''

6. Likewise there is mention in the form of affidavit prescribed by Tahsildar, Sindkhed Raja the Clause-8 is as under :-

''सेवानिवृत्त / दिवंगत कोतवाल वारस असल्यास सक्षम पूरावा जोडावा''

7. Whereas in respect of proclamation issued by other SDOs and Tahsildars, there is no such stipulation therein.

8. The respondents' case is that inadvertently such stipulations are made either in the proclamation or in the application form issued by some authorities. However, while conducting the process, no preference is given and the selection process is completed strictly as per G.R. dated 5th Sept.,2013 issued by the Revenue and Forest Department.

9. The recruitment for the post of Kotwal is made as per the Rules of 7th May,1959. There is no provision like this in the said rules. However, the applicants' relied on communication dated 25-04-1997 which is issued by the Desk Officer to all the Collectors inviting the attention to the G.R. dated 28-01-1974. In the said

communication the decision no.8 in the G.R. dated 28-01-1974 is referred which runs as under –

> ''निर्णय क्र.८ :- इतर सर्व गोष्टी बरोबर असतील तर कोतवालांच्या जागेवर नेमणूक करतांना कोतवालांच्या मुलांना तर उमेदवारांच्या वर प्राधान्य देण्यात यावे.''

10. That was followed for some time and hence above references are made in proclamation. However, now the Govt. has issued the fresh G.R. on 5th Sept.,2013 superseding all the earlier G.Rs. The elaborate guidelines are given in this G.R. which now hold the filled. The process of selection of Kotwal is done strictly following the guidelines laid down therein. This G.R. nowhere lays down about the preference to the sibling of the Ex-kotwal. It is also specifically mentioned that this G.R. is issued in superseding all other directions and G.Rs. etc.

11. In this state of affairs, it is manifest that the applicants cannot rely on the earlier G.R. dated 28-01-1974 or the communication dated 25-04-1997 because all other G.Rs. and Notifications are superseded and the recruitment is done as per G.R. dated 5th Sept.,2013.

12. Only because there is variance in the terms, conditions and clause of the proclamation or application form, it cannot be said that on that basis the recruitment is done and no such instance is putforth. On the contrary the respondents' firm stand is

that the process is carried out as per the guidelines and terms and conditions laid down in the G.R. dated 5th Sept.,2013. There is no an iota of material on record to indicate otherwise. In absence of such material the case propounded by the applicants has no foundation and is devoid of merit has no legs to stand. Consequently, the O.As. are rejected. No order as to costs.

sd/-

(S.S.Hingne)
Member (J).

dnk.