

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 1011 OF 2023**

**DISTRICT:- JALGAON**

**Kanchan Mukesh Patil,**

Age-28 years, Occu. Household  
R/o. Plot No. 28, Gajanan Krupa,  
D.D. Nagar Bhag 2, Parola  
Tq. Parola, Dist. Jalgaon.

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**APPLICANT**

**V E R S U S**

**1. The State of Maharashtra**

Through its Secretary  
Revenue and Forest Department,  
Mantralaya, Mumbai-400032.

**2. The Collector, Jalgaon**

District-Jalgaon.

**3. The President of Kotwal**

Selection Committee Cum  
Sub Divisional Officer,  
Erandole, Tal-Erandole  
District-Jalgaon.

**4. The Tahsildar, Parola**

Tal-Parola, District-Jalgaon.

**5. Seema Pankaj Surve**

Age : 30 years, Occu. Household,  
R/o. House No. 11, Durga Petrol  
Pump, Mhasave Shivar, Parola,  
Tq. Parola, Dist. Jalgaon.

.. **RESPONDENTS**

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APPEARANCE	:	Shri M.V. Bhamre, learned counsel for the applicant.
	:	Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.
	:	Shri A.S. Deshmukh, learned counsel for respondent no. 05.

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**CORAM : JUSTICE SHRI P.R. BORA, VICE CHAIRMAN**  
**AND**  
**: SHRI VINAY KARGAONKAR, MEMBER (A)**  
**DATE : 10.06.2024**  
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**ORDER**

(Per : Justice Shri P.R. Bora, Vice Chairman)

Heard Shri M.V. Bhamre, learned counsel for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities and Shri A.S. Deshmukh, learned counsel for respondent no. 05.

2. By filing the present Original Application the applicant has challenged the selection of respondent no. 5 on the post of Kotwal of village Parola Sajja on the ground that the said respondent is not resident of the said Sajja. While seeking cancellation of the appointment of respondent No. 5 on the said ground, the applicant has prayed for her appointment on the said post being the next candidate in the order of merit and being the permanent resident of Sajja Parola. It is the further contention of the applicant that as per the terms and conditions incorporated in the advertisement, the person applying for the post of Kotwal must be resident of the said Sajja. It is the case of the applicant that respondent no. 5 is the resident of Sajja Mhasve and not of Sajja Parola.

3. Initially when the matter was heard by this Tribunal, prima-facie case was noticed in favour of the applicant and in the circumstances interim order was passed, thereby restraining the respondents from appointing respondent no. 5 on the said post.

4. The State authorities have opposed the contentions raised and the prayer made in the O.A. by filing their affidavit in reply. According to the State authorities, respondent No. 5 has been duly appointed on the post of Kotwal of Sajja Parola, since in the enquiry conducted, it is proved that he is residing in Sajja Parola. Respondent no. 5 also has filed affidavit in reply and has opposed the contentions raised in the O.A. and the prayers made therein. It is the contention of respondent no. 5 that the condition which has been incorporated in the advertisement requiring the candidate to be resident of Sajja Parola is in consonance with the Recruitment Rules. The recruitment rules are placed on record by respondent no. 5 at page no. 99 of the paper book. Respondent No. 5 has asserted that she is the resident of Sajja Parola and has filed certain documents in support of the said claim. It is further contended that she has been duly selected on merit.

5. We have duly considered the submissions made on behalf of the applicant, as well as, respondents. The advertisement No. 01/2023 was published for filling the post of Kotwals in the Sub-Division Erandol of District Jalgaon. Taluka Parola comes under the said Sub-Division. In clause 2 of the advertisement in pursuance of which the applicant and respondent No. 5 applied for the post of Kotwal for Sajja Parola it is provided that, a candidate must be resident of any of the villages under the Sajja for which he has applied. We deem it appropriate to reproduce herein-below the said term as it is in vernacular, which reads thus: -

“२. अर्जदार यांनी ज्या सजेतील पदासाठी अर्ज सादर केला आहे, त्याच सजातील अंतर्भूत असलेल्या गावामधील अर्जदार रहिवाशी असणे आवश्यक आहे. त्याबाबतचा पुरावा अर्ज भरतेवेळी आवश्यक राहिल.”

6. In the said advertisement under the caption **Selection Process, Terms, Conditions**, in clause 7 thereof, it is stated that, the candidate must be a local resident of any of the village in Sajja for which he has applied. Based on the terms and conditions as above, it has been argued on behalf of the applicant that respondent No. 5 is not the resident of any of the village falling in Sajja Parola and, as such, respondent No. 5 could not have been appointed on the post of Kotwal of Sajja Parola. According to the applicant, respondent No. 5 is the resident of Sajja Mhasve. The applicant has placed on record

certain documents demonstrating that respondent No. 5 is the resident of Sajja Mhasve and not of Sajja Parola.

7. As against it, it is the contention of respondent No. 5 that Rules for the Recruitment and Employment of Kotwals accompanied to the Government Resolution dated 7<sup>th</sup> May, 1959 provide that, "A person appointed as a Kotwal of a village must have knowledge of the local conditions of the village, and must be prepared to stay in the village of his appointment." It has been argued by Shri Avinash S. Deshmukh, learned counsel appearing for respondent No. 5 that the condition in the advertisement which is pressed in the service by the applicant is beyond the Recruitment Rules and to some extent contrary to the Recruitment Rules.

8. We find substance in the contention as has been raised on behalf respondent No. 5. The Rules for the Recruitment and Employment of the Kotwals nowhere mandate that a person to be appointed on the post of Kotwal of a particular village must be the resident of the said village or Sajja as mentioned in the advertisement. Along with her affidavit in reply, respondent No. 5 has filed on record the advertisement issued in certain other Talukas like Jalna, Ambad, Osmanabad, Nagpur and Ahmedpur District Latur. In all these

advertisements as about the residence, the prescribed requirement is that the person appointed on the post of Kotwal will be under an obligation to execute bond on stamp paper of Rs. 100/- that he will reside in the village of which he may be appointed as Kotwal.

9. Further in all these advertisements published in the aforesaid talukas, there is a condition which requires that the person applying for the post of Kotwal shall be resident of the taluka for which advertisement has been published. The candidates are further require to file on record the certificate issued by Tahsildar or Naib Tahsildar of the said taluka certifying that the candidate concerned is resident of the said taluka. In none of the aforesaid advertisements any such condition is prescribed that the candidate concerned must be resident of any of the villages falling in the Sajja for which the appointment is to be made. In fact, as per the recruitment rules even such condition also cannot be imposed that the candidate shall be resident of the Tahsil concerned in which the appointment is to be made.

10. We reiterate that as per the recruitment rules, the only requirement is that the candidate concerned must execute a bond on stamp paper of Rs. 100/- that if he is appointed as

Kotwal of any village he will reside in the said village during his tenure as Kotwal.

11. Our attention was invited by learned counsel Shri Avinash Deshmukh to the Government Resolution dated 05.09.2013, which provides that insofar as recruitment for the post of Kotwal is concerned, uniformity be maintained. From the documents on record it reveals that in all other talukas the advertisements are carrying the uniform terms and conditions. The advertisement in the present matter however, contains a different condition than is prescribed in the Recruitment Rules of 1959, as well as, the advertisements published in other talukas. The question, therefore, arises whether the respondents could have prescribed the term/condition other than the conditions prescribed in the Recruitment Rules. It has been argued by the learned counsel appearing for the applicant that the candidates applying for the subject post in pursuance of the advertisement No. 01/2023 were under an obligation to fully comply the eligibility conditions prescribed in the said advertisement. As has been further argued on behalf of the applicant that since respondent No. 5 is not resident of any of the villages falling in Sajja Parola respondent No. 5 could not have been appointed as Kotwal of Sajja Parola. Considering the

terms and conditions incorporated in the advertisement No. 01/2023 the person who is residing in any of the village in Sajja Parola only is liable to be appointed on the post of Kotwal of the said Sajja.

12. When the present Original Application was first heard at initial stage by this tribunal, only on the basis of the afore referred condition that the candidate concerned must be resident of any of the village of Sajja Parola and from the documents, which were placed on record by the applicant when *prima facie* it was appearing that respondent No. 5 is not resident of any of the village in Sajja Parola, interim relief was granted in favour of the applicant. However, after having considered the affidavits in reply filed by the State authorities as well as respondent No. 5 and more particularly having regard to the Rules for the Recruitment and Employment of Kowal notified along with the Government Resolution dated 07.05.1959, we find it difficult to accept the contentions raised by the applicant that respondent No. 5 has been wrongly selected for the post of Kotwal.

13. The applicant has not disputed that respondent No. 5 is resident of taluka Parola. As per the advertisements issued in other Tahsils the condition uniformly prescribed is only to



the extent that the candidate concerned must be resident of the taluka in which he is appointed. In the process of recruitment, the Recruitment Rules play a dominant role. Though it is true that the rules are not obligatory for appointment, once rules are made, the appointment has to be in accordance with such rules. In the instant matter, Rules for the Recruitment and Employment of Kotwals are existing and are being followed. In the circumstances, appointment of respondent No. 5 cannot be objected on the ground that she is not the resident of Sajja Parola or any of the villages in Sajja Parola though in the concerned advertisement such condition is prescribed. In the Recruitment Rules when no such restriction is imposed the State authorities could not have imposed such condition. It is well settled that the advertisement cannot be in deviation of requirements of the Recruitment Rules.

14. As noted hereinabove, it is the case of the applicant that respondent No. 5 is resident of Mhasve Shivar, which does not fall under Sajja Parola. Respondent No. 5 has denied the said contention. As contended by respondent No. 5 in her affidavit in reply she is very well residing in Parola, more particularly in Talathi Colony of village Parola. We, see no propriety in indulging in the said controversy. Whether

respondent No. 5 is really residing at Parola or at some other village which does not fall in Sajja Parola, is immaterial. Even if it is assumed that as contended by the applicant, respondent No. 5 is resident of Mhasve Shivar, her selection for the post of Kotwal for Sajja Parola cannot be held illegal or unsustainable on that ground. As noted hereinabove, in all other talukas the condition prescribed requires the candidate to be resident of the concerned taluka. Respondent No. 5 thus, fulfills the said criteria and has been correctly selected for the post of Kotwal of Sajja Parola on the basis of her merit. We, therefore, see no merit in the Original Application. Hence, the following order is passed: -

**ORDER**

Original Application is dismissed without any order as to costs.

**MEMBER (A)**

**VICE CHAIRMAN**

O.A.NO.1011-2023(DB)-2024-HDD-SELECTION PROCESS.