

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 280 OF 2024
(Subject:- Police Patil)**

DISTRICT:- NANDED

Shalini Raosaheb Deshmukh,)
Age: 36 years, Occu: Household,)
R/o. Irapur, Tq. Hadgaon & Dist. Nanded.)...**APPLICANT**

V E R S U S

- 1. The State of Maharashtra,**)
Through Secretary, Home Department,)
Mantralaya, Mumbai-400032.)
- 2. The District Collector,**)
Nanded District, Nanded.)
- 3. The Sub-Divisional Officer/**)
Sub-Divisional Magistrate,)
Sub-Division Office Hadgaon,)
Tq. Hadgaon, Dist. Nanded.)
- 4. The Tahsildar,**)
Tahsil Office Hadgaon, Dist. Nanded.)
- 5. The Gramshevak/Sarpanch,**)
Village Panchayat, Irapur,)
Tq. Hadgaon, Dist. Nanded.)
- 6. Ankita w/o Mukesh Deshmukh @**)
Ankita D/o Kishor Dudhe,)
Age: Nil years, Ouup: Private Service,)
R/o. Near Shrikrushna Talkies, Digras,)
Tq. Digras, Dist. Yavatmal-445203.)...**RESPONDENTS**

APPEARANCE : Shri V.P. Savant, learned counsel for the applicant.

: Shri A.P. Basarkar, learned Presenting Officer for the respondent Nos. 1 to 4.

: Shri Avinash D. Hande, learned counsel for respondent No.5.

: None present for respondent No.6.

CORAM : **Shri A.N. Karmarkar, Member (J)**

RESERVED ON : **03.03.2025.**

PRONOUNCED ON : **06.03.2025.**

ORDER

By filing this Original Application the applicant has prayed for quashing and setting aside the impugned order dated 12.02.2024 thereby appointing respondent No.6 as Police Patil of village Irapur, Tq. Hadgaon, Dist. Nanded.

2. In response to the advertisement dated 01.01.2024 calling applications for the post of Police Patil, the applicant has applied. The respondent No.6 is not residing at village Irapur. She had also applied for the said post. After conducting written and oral tests, the respondent No.2 published selection list wherein the respondent No.6 is shown as selected candidate and the applicant was on wait list. The respondent No.2 has called objections, if any, on selection list on or before 24.01.2024. The applicant and other 26 villagers have submitted written objection for selection of respondent No.6 to the post of Police Patil of village Irapur. They have raised ground that the respondent No.6 is not permanent and

local resident of village Irapur. The respondent No.3 has directed the Circler Officer to conduct inquiry and spot inspection.

3. Accordingly, the Circle Officer and respondent No.5 have conducted inquiry and drawn panchnama. After hearing both the parties, the respondent No.3 has erroneously passed impugned order on 12.02.2024 thereby appointing respondent No.6 as a Police Patil of village Irapur, Tq. Hadgaon, Dist. Nanded and dismissed the objection application of the applicant. The impugned order is challenged on the ground that it is illegal and arbitrary. The respondent No.3 has not considered the documentary evidence which shows that the respondent No.6 is not residing at village Irapur. The Aadhar Card, Election Card and other documents shows that the respondent No.6 is residing at Digras, Tq. Digras, Dist. Yavatmal. As per the advertisement the candidate must be local and permanent resident of concerned village. The respondent authority has not considered the merits and without giving proper reasons, the impugned order was passed. Even the respondent No.6 has given statement before the Circle Officer that she is not residing at village Irapur.

4. The respondent Nos. 3 and 4 have filed affidavit in reply. According to them the respondent No.6 was selected to the post of Police Patil of village Irapur. On the basis of objection

raised by this applicant, report from Circle Officer was called. The opportunity of hearing was given to the applicant and the respondent No.6. This respondent No.3 came to the conclusion that the respondent No.6 got married to one Mukesh Deshmukh, who is also resident of village Irapur. There is also clause in the advertisement regarding production of certificate of Tahsildar or Tahathi in respect of permanent resident. The respondent No.6 has filed certificate issued by the Tahsildar. Accordingly the objection of the applicant was rejected and appointment order was issued in favour of respondent No.6.

5. The respondents have prayed for rejection of the Original Application.

6. I have heard Shri V.P. Savant, learned counsel for the applicant, Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities and Shri Avinash D. Hande, learned counsel for respondent No.5. None appeared for respondent No.6 though duly served. They have submitted as per their respective contentions.

7. It is undisputed fact that the applications were invited to fill up the post of Police Patil of village Irapur, Tq. Hadgaon, Dist. Nanded. Admittedly, five candidates including the present applicant were selected for oral examination. The list of

candidates shortlisted for oral examination was published on 15.01.2024 and 16.01.2024. It is also not disputed that subsequently the list of selected candidates was published on 20.01.2024 in which the present respondent No.6 namely Ankita Mukesh Deshmukh was selected to the post of Police Patil while the applicant was on wait list. It is also undisputed fact that on 24.01.2024 the present applicant and some villagers have raised objection regarding selection of respondent No.6 on the ground that she is not resident of village Irapur. It is their contentions that the respondent No.6 was residing at Digras, Tq. Digras, Dist. Yeotmal. It is also undisputed fact that the respondent No.3 i.e. Sub-Divisional Officer has sought inquiry report from Circle Officer and Gramshevak in respect of issue of residence of respondent No.6. The applicant has mainly raised an objection that as per the advertisement one of the condition for eligible to be appointed for the post of Police Patil is that the candidate should be local and permanent resident of concerned village. It will be proper to reproduce clause No.3 pertaining to eligibility criteria and the clause No.7 regarding selection procedure as given in advertisement. The said cause No. 3 & 7 are reproduced as under:-

पेलीस पाटील पदासाठी किमान आवश्यक अर्हता:-

- १)
- २)

- ३) अर्जदार हा संबंधीत गावचा स्थानिक व कायम रहिवाशी असावा. (तहसिलदार किंवा तलाठी यांचे रहिवासाबाबतचे प्रमाणपत्र)

निवड कार्यपद्धती, अटी व शर्ती:-

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| ६) | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... |
| ७) | अर्जदार संबंधीत गावचा स्थानिक व कायमचा रहिवासी असणे आवश्यक आहे. | | | | | | | | | |

8. Learned Presenting Officer has placed on record photo copies of the original documents during the course of the arguments. It consists of selection list which shows that the respondent No.6 was selected to the post of Police Patil of village Irapur. The applicant was on wait list. The applicant has placed on record inquiry report submitted by the Circle Officer (page No. 31 to 35). It appears that during the course of inquiry the Circle Officer, Talni and Gramsevak of Grampanchayat Office, Irapur have drawn panchanama. They have also recorded the statement of this applicant and the respondent No.6. The statement of present respondent No.6 reveals that she got married to one Mukesh Deshmukh on 03.03.2021. During local enquiry the Circle Officer has noted that since marriage, the respondent No.6 is not residing in village Irapur. The statement of respondent No.6 before the Circle Officer and Gramsevak shows that her husband resides at different place due to his occupation and they visit only

at a time of festivals. Her statement also clearly shows that she is staying at different place. So it is clear from these documents and particularly the statement of candidate i.e. respondent No.6 who is selected as Police Patil that she is staying away from village since prior to about three years i.e. from the date of marriage on 03.03.2021. The applicant has also placed on record the copy of Aadhar Card of respondent No.6, wherein she has disclosed her addressed at Digras. Similarly copy of voters' service portal (page No.28) shows that the applicant's name is recorded in the voter list of Digras Assembly Constituency.

9. The copy of Marriage Certificate of the respondent No.6 is annexed with the papers produced by learned Presenting Officer. It appears that maiden name of the respondent No.6 is Ankita Kishor Dudhe and the name of respondent No.6 is mentioned in the Digres Assembly Constituency with maiden name. The respondent No.6 did not appear though she is served nor contested any of the documents placed on record by the applicant and the State.

10. The respondent-Sub Divisional Officer has observed in the impugned order dated 12.02.2024 that though the respondent No.6 is not presently residing at village Irapur, she got married to one Mukesh Deshmukh, who is resident of village Irapur. The

respondent No.3 – Sub-Divisional Officer has also relied on dominical certificate. However, the dominical certificate of husband of respondent No.6 appears to be of June 2012. Secondly the respondent No.6 herself has stated in her statement before the Circle Officer that her husband is residing away for his occupation. The respondent No.3 i.e. Sub –Divisional Officer has also discussed in the impugned order that the respondent No.6 got married to one Mukesh Deshmukh from the same village and got residence certificate.

11. The documents placed on record by learned Presenting Officer consists of residence certificate issued by Tahsildar on 11.01.2024. It seems that the said certificate was issued on the basis of Ration Card, Aadhar Card, certificate of residence issued by Gramsevak/Sarpanch and self-declaration certificate. The Gramsevak-respondent No.5 has filed affidavit in reply in this proceedings. It appears that the Gramsevak of said Grampanchayat was one of the member of inquiry committee along with Circle Officer. He has contended that during inquiry the villagers have stated that the respondent No.6 is not residing in village Irapur since marriage. Secondly the Aadhar Card of the respondent No.6 shows her address at Digras Tal. Digras, Dist. Yavatmal. Therefore, it will be difficult to rely solely on the residence certificate issued by the Tahsildar on 11.01.2024 that

the respondent No.6 is local and permanent resident of village Irapur. Learned counsel for the applicant has invited my attention to the service affidavit which shows that the respondent No.6 was served on her the addressee at Digras.

12. For the reasons discussed above, it would be difficult to accept that the respondent No.6 has fulfilled eligibility criteria as given in clause No.3 of the advertisement. Therefore it is difficult to accept that the impugned order passed by the respondent No.3 – Sub-Divisional Officer is just, proper and legal. It needs to be set aside and it would be proper to direct the respondent to appoint the applicant to the post of Police Patil of village Irapur, Tq. Hadgaon, Dist. Nanded if there is no any other impediment or she is otherwise eligible to appoint to the post of Police Patil. Hence, the following order:-

ORDER

- (A) The Original Application No. 280 of 2024 is hereby allowed.
- (B) The impugned order dated 12.02.2024 passed by respondent No.3 thereby appointing the respondent No.6 to the post of Police Patil of village Irapur, Tq. Hadgaon, Dist. Nanded is hereby quashed and set aside.

- (C) The respondent No.3 is directed to appoint the applicant to the post of Police Patil of village Irapur, Tq. Hadgaon, Dist. Nanded, if otherwise there is no any other impediment for such appointment, within the period of six weeks from the date of this order.
- (D) In the circumstances, there shall be no order as to costs.

MEMBER (J)

Place:-Aurangabad
Date : 06.03.2025
SAS O.A. 280/2024 Police Patil