

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI, BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 438 OF 2018**

**DISTRICT : HINGOLI**

Kavita Nivrutirao Gitte, )  
Occ : House Wife, R/o: At Post Pardi (Savali), )  
Post-Siddheshwar, Tal-Aundh, (Nagnath), )  
Dist-Hingoli. ) ... **Applicant**

**Versus**

1. The State of Maharashtra )  
Through it's Principal Secretary, )  
Home Department, )  
Mantralaya, Mumbai. )
2. The District Collector Hingoli, )  
Tal & Dist-Hingoli. )
3. The Sub-Divisional Officer, )  
Basmat, Tal-Basmat, Dist-Hingoli. )
4. The President and Sub Divisional )  
Officer of Selection Committee for )  
Recruitment, post of Police Patil-2017, )  
R/o: Sub Divisional Office, )  
Basmal, Tal-Basmal, Dist-Hingoli. )
5. Janardhan Dinanath Nagare, )  
Occ : Agri, R/o: At Post Pardi [Savali], )  
Post-Siddheshwar, Tal-Aundh [Nagnath], )  
Dist-Hingoli. ) .. **Respondents**

Shri S.G Jadhavar, learned advocate for the Applicant.

Shri N.U Yada, learned Presenting Officer for the Respondents 1 to 4.

Shri R.J Nirmal, learned advocate for Respondent no. 5 is absent.

**CORAM** : **B.P Patil (Acting-Chairman)**

**DATE** : **20.08.2019**

**ORDER**

1. Applicant has challenged the order dated 16.2.2018 issued by the Respondent no. 3 appointing the Respondent no. 5 as Police Patil of

village Savali, Tal-Aundh (Nagnath), Dist-Hingoli by filing the present O.A.

2. It is contention of the applicant that in the month of December, 2017 the Respondent no. 3 published an advertisement to fill up the post of Police Patil of different villages of Vasamal Sub-Division, Dist-Hingoli, including village Savali, Tal-Aundh, Nagnath and invited the application of eligible candidates. In response to the advertisement, the applicant, Respondent no. 5 and other aspiring candidates submitted their applications and participated in the recruitment process. The applicant, Respondent no. 5 and other eligible candidates appeared for written examination held on 7.1.2018. The written examination was conducted for 80 marks. In the written examination the applicant secured 50 marks while the respondent no. 5 secured 49 marks. They were called for oral interview held on 25.1.2018. It is the contention of the applicant that the Respondents no 3 & 4 intentionally gave less marks to the applicant than Respondent no. 5 in the oral interview. It is her contention that the Respondents acted malafide while conducting oral interview and they favoured the Respondent no. 5. On the basis of aggregate marks they declared, the Respondent no. 5 as selected candidate. Accordingly, the Respondent no. 5 issued impugned order on 16.2.2018 and appointed the Respondent no. 5 as Police Patil of village Savali, Tal-Aundh, Nagnath.

3. It is contention of the applicant that the Government of India vide its office memorandum No. 39020/09/2015(Est[B]) in Ministry of Personnel, Public Grievance and pensions Department of Personnel & Training issued guidelines to discontinue the interviews at Junior level posts of Group 'B' (Non gazetted), Group 'C' & 'D'. In response to the said memorandum, the Government of Maharashtra responded for discontinuation of interviews at junior level.

4. It is contention of the applicant that the Respondents were aware about the above said memorandum of Govt. of India. In spite of that, the respondents held the oral interview arbitrarily contrary to the policy of

the Government. The oral interview conducted by the Respondent is illegal.

5. It is contention of the applicant that she secured highest marks in the written examination and therefore she ought to have been declared selected candidate without conducting the oral interview on the basis of recommendation /office memorandum issued by the Government of India. But the Respondents no 3 & 4 have not followed the same and conducted oral interview illegally and declared the Respondent no. 5 as selected candidate. The Respondent no. 3 thereafter issued appointment order to the Respondent no. 5 illegally.

6. It is further contention of the applicant that she raised objection regarding selection and appointment of the Respondent no. 5 before the Respondents by filing an application. But the Respondents had not considered the same. Therefore, she has approached this Tribunal by filing the Original Application and prayed to quash and set aside appointment order dated 16.2.2018 issued in favour of the Respondent no. 5 appointing him on the post of Police Patil of village Savali, Tal-Aundh, (Nagnath), Dist-Hingoli.

7. Respondents no 1 & 2 filed their affidavit in reply and resisted contention of the applicant. It is their contention that the Respondent no. 2 issued the advertisement dated 6.12.2017 inviting on-line applications from the eligible candidates for the post of Police Patil of different villages of Basmat Sub-Division including village Pardi (Savali) Tal-Aundh, Dist-Hingoli. In pursuance of the same, the applicant, respondent no. 5 and others filed their application on-line. The applicant and Respondent no. 5 appeared for written examination held on 7.1.2018. In the written examination, the applicant secured 50 marks and the Respondent no. 5 secured 49 marks. They were called for oral interview scheduled on 25.1.2018 by communication dated 11.1.2018. In the oral interview, the applicant secured 05 marks while the Respondent no. 5 secured 16 marks. The applicant secured 55 marks in aggregate while the Respondent no. 5 secured 65 marks in aggregate. The Respondent no. 5 secured highest marks in aggregate and therefore

he was declared as selected candidate for the post of Police Patil of village Pardi (Savali), Tal-Aundh (Nagnath) and published the list on 2.2.2018.

8. It is their contention that the recruitment process has been conducted as per Government Resolution dated 22.8.2014 and the memorandum / circular issued by Government of India No. 3902/09/2015/Estt. B is not applicable to the said recruitment. There is no violation of any rules or G.R.

9. It is their contention that they conducted the oral interview as per rules and allotted marks to the candidates on the basis of their performance in oral interview after considering their educational qualification, general knowledge etc. They have denied that they favoured the Respondent no. 5 and allotted more marks to him in the oral interview.

10. It is their further contention that they received the application of the applicant dated 3.3.2018 raising objection to the selection of Respondent no. 5. They have informed the applicant in that regard by communication dated 31.3.2018 that the recruitment process has been conducted as per law and rules. It is their contention that there is no illegality in the recruitment process, selection and appointment of the Respondent no. 5 as Police Patil of village Pardi (Savali). Therefore, they prayed to reject the Original Application.

11. Respondent nos 3 & 4 filed their affidavit in reply and resisted the contention of the applicant. They have raised the similar contentions to that of the contentions raised by the Respondents no 1 & 2 in their affidavit in reply and prayed to reject the O.A.

12. Respondent no. 5 filed affidavit in reply and resisted the contention of the applicant. He has admitted the facts that he himself, the applicant and others filed applications on-line and participated in the recruitment process. He has admitted that the applicant secured 50 marks in written examination and he secured 49 marks in the written

examination and they were called for oral interview. He has admitted the fact that he himself and the applicant appeared for oral interview and in the oral interview the applicant secured 05 marks and he secured 16 marks. It is his contention that he secured highest marks in aggregate. Therefore, he was declared as selected candidate and accordingly he was appointed as Police Patil.

13. It is his contention that the advertisement inviting the application was issued in December, 2017 and it has been specifically mentioned therein that written examination for 80 marks and oral interview for 20 marks will be held. Accordingly the applicant and others participated in the recruitment process. She had not challenged the advertisement as well as G.R dated 22.8.2014. Therefore, she cannot challenge his appointment. It is his contention that the memorandum issued by Government of India is not applicable to the present case and it will not override the G.R. Therefore, he justified his selection and appointment. On these grounds he has prayed to dismiss the Original Application.

14. I have heard Shri S.G Jadhavar, advocate for the applicant, Shri N.U Yadav, learned Presenting Officer for the Respondents and Shri R.J Nirmal, advocate for Respondent no. 5. I have perused the documents on record produced by both the parties.

15. Admittedly, on 6.12.2017, the Respondent no. 3 issued an advertisement inviting on-line application from eligible and aspiring candidates for the post of Police Patil of different villages of Basmat, Sub-Division including village Pardi (Savali), Tal-Aundh (Nagnath). In pursuance of the same, the applicant, Respondent no. 5 and others filed their on-line applications and participated in the recruitment process. They appeared for written examination. In the written examination held on 7.1.2018 the applicant secured 50 marks and the Respondent no. 5 secured 49 marks. Both were called for oral interview held on 25.1.2018 and in the oral interview the applicant secured 05 marks while the Respondent no. 5 secured 16 marks. The applicant secured 55 marks in aggregate while the Respondent no. 5 secured 65 marks in aggregate. Since the Respondent no. 5 secured highest marks in aggregate he was

declared as selected candidate and accordingly he was appointed as Police Patil of village Pardi (Savali) by impugned order dated 16.2.2018.

16. Learned advocate for the applicant has submitted that the Respondents no 3 & 4 have not followed the memorandum issued by Government of India dated 15.1.2016, 29.12.2015 and 31.12.2015, which provides that the interview will be done away in cases of appointment at Junior level posts, i.e. Group-B (Non-gazetted), Group C & D. The Respondents conducted oral interviews in violation of above circulars. Therefore, the impugned selection and appointment of the Respondent no. 5 on the post of Police Patil is illegal. He has submitted that the applicant secured highest marks, i.e. 50 marks in written examination but the Respondents had given less marks to her and more marks to Respondent no. 5 in oral interview arbitrarily. The Respondents favoured the Respondent no. 5 and therefore, they conducted the oral interview. Therefore, she prayed to quash and set aside the selection and appointment of Respondent no. 5 on the post of Police Patil by allowing the Original Application.

17. Learned Presenting Officer and advocate for Respondent no. 5 have submitted that in the advertisement it has been specifically mentioned that written examination for 80 marks and oral examination for 20 marks will be conducted. The applicant participated in the recruitment process and she was aware about the said fact. She appeared for written as well as oral examination without challenging the advertisement. The Respondents no 3 & 4 conducted recruitment process as per the provisions of rules and G.R dated 22.8.2014 and there is no illegality in it. The applicant secured 50 marks in written examination and Respondent no. 5 secured 49 marks in it. In the oral interview the Respondents no 3 & 4 assessed the personal knowledge, general knowledge and personality of the candidate and on the basis of it, they allotted marks to the applicant and Respondent no. 5. The applicant secured 05 marks and Respondent no. 5 secured 16 marks in the oral interview on the basis of their performance. The Respondent no. 5 secured highest marks in aggregate. Therefore, he was declared as

selected candidate. Accordingly, he was appointed as Police Patil. There is no illegality in the entire process. Therefore, they justified and supported the impugned order and prayed to dismiss the O.A.

18. On perusal of the record, it reveals that Government of Maharashtra framed rules for recruitment of Police Patil. On 22.8.2014, the Government of Maharashtra issued the G.R and issued the guidelines. By the said G.R, Government prescribed the procedure for recruitment of Police Patil and decided to hold written examination for 80 marks and oral interview for 20 marks. In pursuance of the G.R, the Respondent no. 3 issued the advertisement on 6.12.2017 and invited the applications on-line from aspiring eligible candidates. The applicant, Respondent no. 5 and other eligible aspiring candidates filed their applications and participated in the recruitment process. The applicant never challenged the advertisement or the conditions or procedure regarding written examination and oral examination. Not only this, but she appeared for written examination and for oral interview. That time also, she had not raised any objection. The Respondents no 3 & 4 called the applicant and Respondent no. 5 for oral interview as they secured highest marks, i.e. 50 & 49 respectively. The Respondents no 3 & 4 conducted oral interview of the applicant and Respondent no. 5 on 25.1.2018. They assessed general knowledge, skill and personality of the applicant and Respondent no. 5 in the oral interview and allotted marks to them. The applicant secured only 05 marks in the oral interview while Respondent no. 5 secured 16 marks in the oral interview. The applicant secured 55 marks in aggregate, while Respondent no. 5 secured 65 marks in aggregate. As the Respondent no. 5 secured highest marks, i.e. 65 marks, the Respondents no 3 & 4 declared him as selected candidate and published the list on 2.2.2018. On the basis of his selection, the Respondent no. 3 issued impugned order to the Respondent no. 5. These facts show that there is no illegality in the recruitment process conducted by the Respondents. It has been conducted as per guidelines given in the G.R dated 22.8.2014.

19. There is nothing on record to show that the Respondents acted malafide and with malice while allotting marks to the Respondent no.5 at

the time of oral interview. The applicant has not adduced sufficient evidence or material in that regard to substantiate her contention. The applicant made baseless allegations in that regard. Therefore, I find no substance in the submission advanced by learned advocate for the applicant in that regard.

20. I have gone through office memorandum dated 15.1.2016 issued by the Government of India and letter dated 29.12.2015 and 31.12.2015. By the said letter, the Government of India recommended State to discontinue practice of interview at Junior level posts in the Government of India on the basis of recommendations of the Committee of Secretaries. There is nothing on record to show that the said recommendation has been accepted by the Government of Maharashtra and decided that the interview will be done away. Therefore, in the absence of it, the above referred memorandum is not attracted in this case. On the contrary, the Respondents conducted recruitment process of Police Patil on the basis of guidelines given in G.R dated 22.8.2014. There is no irregularity or illegality in the entire process.

21. The Respondents no 3 & 4 had conducted the recruitment process as per Rules and G.R. They have selected and appointed the Respondent no. 5 as he secured highest marks. There is no illegality in the impugned order issued by the Respondent no. 3 appointing Respondent no. 5 as Police Patil of village Pardi (Savali), Tal-Aundh, Nagnath, Dist-Hingoli. Hence, no interference in it is called for. There is no merit in the O.A. Hence it deserves to be dismissed.

22. In view of the discussion in the foregoing paragraphs, Original Application stands dismissed. No order as to costs.

**(B.P Patil)**  
**Acting-Chairman**

**Place : Aurangabad**

**Date : 20.08.2019**

**Dictation taken by : A.K. Nair.**

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