

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION 639 OF 2014**

DISTRICT : NASIK

Shri Santosh Baburao Kushare,)
Occ : Nil, R/at Post Katarni,)
Tal-Yeola, Dist-Nasik.)
Add for service of notice:)
Mr Rameshwar N. Gite, Advocate,)
AAWI, Room no. 36, High Court,)
Mumbai – 32.)...**Applicant**

Versus

1. The Superintendent of Police,)
Raigad, At Alibaug.)
2. The Inspector General,)
State of Maharashtra.)
3. Mr Amol Uttal Dalvi.)
R/o: Nhavi Galli, Karjat,)
Dist-Ahmednagar.)...**Respondents**

Shri R.N. Gite, learned advocate for the Applicant.

Ms Archana B.K. learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)
Shri R.B. Malik (Member) (J)

DATE : 16.09.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri R.N. Gite, learned advocate for the Applicant and Ms Archana B.K. learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant challenging the communication dated 26.6.2014 from the Respondent no. 1 informing him that his name was deleted from the list of selected candidates from Project Affected Person (PAP) category as the Respondent no. 3 from the same category has scored more marks than the Applicant in the selection process.

3. Learned Counsel for the Applicant argued that the Respondent no. 1 had issued advertisement on 29.4.2014 for appointment to the post of Police Constables in Raigad District Police Recruitment-2014. A total of 7 posts were reserved horizontally for PAP candidates, out of which 2 were from OBC category. The Applicant had participated in the selection process from

PAP-OBC category and scored a total of 153 marks. The provisional list of successful candidates was published by the Respondent no. 1 on 18.6.2014 and the Applicant was placed at Sr. No. 2 in OBC-PAP category. One Shri Mahesh Pandurang Madhvi was placed at Sr. no. 1, having obtained 160 marks. In the list published on 18.6.2014, it was clearly mentioned that if a candidate has any objection, to the list, he can register it before 21.6.2014. As no objection was received, the final select list was published on 21.6.2014, and the Applicant was selected from OBC-PAP category. Learned Counsel for the Applicant argued that the Respondent no. 1 was not legally authorized to change the final selection list, as published on 21.6.2014, and the communication dated 26.6.2014 informing the Applicant that the Respondent no. 3 had applied from OBC-PAP category and scored more marks than the Applicant is bad in law and may be quashed and set aside.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondent nos 1 & 2 that the present Original Application is misconceived. The Respondent no. 3 had applied for the post of Police Constable from OBC-PAP category. He had scored 166 marks in the selection process, while the Applicant scored only 153 marks. By mistake of the Head Clerk in the office of the Respondent no. 1, the Respondent no. 3's name was not included in the selection list and the name of the

Applicant was included. Learned Presenting Officer stated that by order dated 28.6.2016, the Special Inspector General of Police, Konkan Range, Navi Mumbai, has imposed punishment of brining the pay of the concerned Head Clerk Shri Bhagat at the minimum of the scale for two years. As there was an obvious mistake in preparation of the selection list, it was rectified and the Respondent no. 3 was declared successful. Learned Presenting Officer stated that the Respondent no. 3 had applied for the post from OBC-PAP category and furnished all the necessary documents/certificates. Learned P.O stated that no vested right was created in favour of the Applicant by inclusion of his name in the selection list. A mistake was corrected by the Respondent no. 1, when it was brought to his notice.

5. We find that the Respondent no. 3, had applied from the OBC-PAP category. Learned Presenting Officer has placed on record, a copy of his application dated 22.5.2014, as well as copies of other relevant Certificates. There is no doubt that the Respondent no. 3 scored 166 marks in the selection process as against 153 marks scored by the Applicant. Learned Presenting Officer has also placed a copy of order dated 28.6.2016, passed by the Special Inspector General of Police, Konkan Range, Navi Mumbai, in a Departmental Enquiry against one Shri Vijay Baban Bhagat, Head Clerk in the office of the Respondent no. 1, who was held guilty of

deliberately omitting the name of the Respondent no. 3 from the list of successful candidates from OBC-PAP category and including the name of the Applicant instead. Shri Bhagat has been punished in the aforesaid D.E. From all these documents, it is quite clear that the Respondent no. 3 was rightly selected by the Respondent no. 1 for the post of Police Constable from OBC-PAP category. The Applicant's claim is that once the final selection list of successful candidates was declared by the Respondent no. 1 on 21.6.2014, he had no powers to change the same under any circumstances. This contention of the Applicant has to be rejected. A mistake can always be rectified. In the present case, merely by inclusion of the name of the Applicant, in the selection list, no vested right in his favour was created. This is not a case where interference by this Tribunal is required.

6. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

Sd/-
(R.B. Malik)
Member (J)

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 16.09.2016
Dictation taken by : A.K. Nair.