

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION 1024 OF 2014

DISTRICT : KOLHAPUR

Smt Ranjana Prakash Malavi,)
Age : 34 years, R/o: 401,)
Pratik C.H.S, At Post Bandiwada,)
Tal-Panhala, Dist-Kolhapur.)...**Applicant**

Versus

1. The State of Maharashtra)
Through Addl. Chief Secretary,)
Revenue Department,)
Mantralaya, Mumbai 400 032.)
2. The Deputy Collector,)
Sub Divisional Revenue Officer,)
Panhala Division, Panhala,)
Dist-Kolhapur.)
3. The Tahsildar,)
Panhala, Dist-Kolhapur.)
4. Smt Yogita Y. Patil,)
At Post Bandiwada, Tal-Panhala,)
Dist-Kolhapur.)...**Respondents**

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Shri J.N Kamble, learned advocate for the Applicant.

Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents no 1 to 3.

Ms Swati Manchekar, learned advocate for Respondent no. 4.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

Shri R.B. Malik (Member) (J)

DATE : 01.07.2016


PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri J.N Kamble, learned advocate for the Applicant, Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents no 1 to 3 and Ms Swati Manchekar, learned advocate for Respondent no. 4.

2. This Original Application has been filed by the Applicant challenging the order dated 28.8.2014 appointing the Respondent no. 4 as Kotwal at Bandiwade, Tal-Panhala, Dist-Kolhapur, though the Applicant stood first in the merit list.


3. Learned Counsel for the Applicant argued that the Respondent no. 3 had issued a proclamation on



5.12.2013 for recruitment to the post of Kotwal in 14 villages in Panhala Tahsil of Kolhapur. The post of Kotwal for Saza Bandiwade, comprising of villages of Bandiwade and Injole was reserved for open-woman. The Applicant had applied for the post and in the written examination conducted by the Respondent no. 3, the Applicant scored 48.14 marks while the Respondent no. 4, scored 46 marks and was placed second in the merit list. However, the Respondent no. 3 appointed the Respondent no. 4 as 'Kotwal' of Bandiwade, ignoring the legal claim of the Applicant. Learned Counsel for the Applicant stated that educational qualification for Class-IV post is Class-IV, while the Applicant has submitted a copy of the School Leaving Certificate of St. Crispin's Home Girls School (Secondary), Pune. This Certificate indicated that the Applicant had not passed 10th Class while leaving School on 27.6.1997. However, the copy furnished to the Respondents by the Applicant showed that the Applicant had passed the 10th class. Learned Counsel for the Applicant argued that this fact was unimportant as the educational qualification for the post of 'Kotwal' was 4th class and by altering the entry regarding '10th fail' to '10th pass', the Applicant did not derive any advantage. This alteration was probably done by the husband of the Applicant without the knowledge of the Applicant. In any case, the Applicant passed SSC examination in October, 1997.




4. Learned Chief Presenting Officer (C.P.O) argued on behalf of Respondents no 1 to 3 that the Applicant had tampered with the School Leaving Certificate issued by St. Crispin's Home Girls School (Secondary), Pune, which had shown that the Applicant left the school on 27.6.1997 and at that time she was 10th fail. However, the Applicant changed 10th Fail to 10th Pass. This fact came to light when her Certificate was verified from the Principal of St Crispin's Home Girls School, who sent the information as per School records, which showed that the Applicant had not passed 10th class. In fact, she passed S.S.C in October 1997, as admitted by herself. Learned C.P.O stated that the Applicant has 5 children. As per the first proviso to Rule 3 of the Maharashtra Civil Services (Declaration of Small Family) Rules, 2005 a person having more than two children on the day of the commencement of the rules (notified on 28.3.2005) shall not be disqualified for appointment under these rules as long as the number of children on the date of such commencement does not increase. However, if one more child is born within one year from the commencement of these rules, that will not be taken into consideration. As per information furnished by the Applicant, her youngest child, a son, by name Prem Prakash Malavi, was born on 22.10.2005 at home and this birth was not registered in the Gram Panchayat of Birth and Death Register. Learned C.P.O stated that there were discrepancies in the place and date of birth of



her other children also. In the affidavit filed by the Applicant on 15.7.2007 for School admission. She stated that her second daughter was born at home at Bandiwade and the birth was not registered in Village Panchayat at the time of birth. However, there was a letter from Mother Care Hospital, Pune, certifying that a daughter was born to the Applicant in that hospital on 25.3.2001. Learned C.P.O stated that the Applicant had not furnished correct information about dates of birth of her children. The Applicant's conduct was found not above board and she was not selected for the post and the Respondent no. 4, who was second in the merit list was selected. He cited judgment of Hon'ble Supreme Court in **S.P. CHENGALVARAYA NAIDU Vs. JAGANNATH & ORS : AIR 1994 SC 853.**

5. Learned Advocate Ms Manchekar argued on behalf of the Respondent no. 4 that after the marriage, the Respondent no. 4 has become resident of Mankatrewadi in village Injole. The claim of the Applicant that the Respondent no. 4 is not resident of Injole or Bandiwade village is false. Learned Counsel for the Respondent no. 4 argued that the Applicant was disqualified as she submitted fabricated documents in support of her candidature. As the Respondent no. 4 was next in the merit list and otherwise fully eligible to be appointed as 'Kotwal' of Saza Bandiwade, she was rightly appointed in that post by order dated 28.8.2014.



6. The Applicant had submitted copy of her School Leaving Certificate dated 10.7.1997, which is at Exhibit R-1, appended to the affidavit in reply dated 31.7.2015 (P. 87 of the Paper Book). It shows that the Applicant had passed 10th class, when she left the school on 27.6.1997. As the original of the aforesaid School Leaving Certificate showed some overwriting, the Respondent no. 3 made inquiries with the St. Crispin's Home Girls School, Pune, where the Applicant was studying. The true copy of the School Leaving Certificate of the Applicant as per school records was sent by the School Principal by letter dated 7.1.2014 to the Respondent no. 3. It is seen that the Applicant had failed in 10th class when she left School on 27.6.1997. (Page 29A of the Paper Book). Exhibit R-11, appended to the affidavit in reply of the Respondent nos 2 & 3 dated 31.7.2015, ^{is} the explanation submitted by the Applicant on 27.1.2014 to the Respondent no. 3. The Applicant had admitted that there was tampering with the School Leaving Certificate submitted by the Applicant. It is stated that:-

“स्दर हजर केलेल्या दाखलेमध्ये फेरफार केलेले आहे हे मला माहित असते तर मी हजर केला नसता. तसेच फेरफार कोणी केला किंवा कसे मला काहीही माहिती नाही.”

This is an admission by the Applicant that the School Leaving Certificate submitted by her was tampered with. As regards dates of birth of Children of the Applicant, the

Applicant has furnished the following information about their dates of birth, viz.

Sr. No	Name	Date of birth
1.	Sayali Prakash Malavi	17.1.2000
2.	Sakshi Prakash Malavi	25.3.2001
3.	Janhavi Prakash Malavi	7.10.2002
4.	Sahil Prakash Malavi	22.4.2004
5.	Prem Prakash Malavi	22.10.2005

As per the letter dated 19.2.2015 to the Respondent no. 3, from Mother Care Hospital, Pune, it is seen that Applicant's first three children (all daughters) were born on 18.1.2000, 25.3.2001 and 17.10.2002 and all births were registered with Pune Municipal Corporation. However, Applicant had submitted an affidavit to the Head Master of the School in Bandiwade for admission of her second daughter that she was born at home at Bandiwade and her birth was not registered at village Panchayat or any other Government office. From these documents, it appears that the Applicant did not have any compunction in swearing in incorrect affidavit. Learned C.P.O has cited judgment of Hon'ble Supreme Court in CHENGALVARAYA NAIDU's case (supra), wherein Hon'ble Supreme Court has observed that:-

"We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach



the Court. He can be summarily thrown out of the litigation.

7. We are unable to conclude that the Respondent no. 3 committed any wrong in rejecting the candidature of the Applicant for tampering with Certificates and not furnishing correct information about place of birth of her children. The Respondent no. 4 has produced copy of ration card and Gram Panchayat Certificate to show that she is resident of Mankatrewadi in village Injole, which is part of Saza Bandiwade. The claim of the Applicant that the Respondent no. 4 was not resident of the village Bandiwade is not borne out by the material on record. The Respondent no. 4 appears to be fully eligible to be appointed as Kotwal of Saza Bandiwade

8. 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)

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Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 01.07.2016
Dictation taken by : A.K. Nair.