

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO. 523 OF 2018

DISTRICT : SOLAPUR

Smt. Gangasagar Vithoba Zunjar,)
Age : 31 years, Occ.: Nil,)
R/at. Village Kauthali, Tal.: Uttar Solapur,)
Dist.: Solapur.)...**Applicant**

Versus

1. The State of Maharashtra,)
General Administrative Department,)
Mantralaya, Mumbai.)
2. The District Collector, Solapur)
Solapur.)
3. President)
Police Patil Recruitment Procedure 2018)
And/or)
The Sub-Divisional Officer,)
Solapur No.1, Solapur)
4. The Tahsildar,)
Uttar Solapur,)
Dist.: Solapur.)
5. Smt. Parvati Bapurao Mali,)
Aged about 35 years)
A/post: Kauthali, Tal.: Uttar Solapur,)
Dist.: Solapur.)...**Respondents**

Smt. Ujawala Karpe, the learned Advocate holding for Shri S.M. Kamtam,
the learned Advocate for the Applicant.

Shri A.J. Chougule with Shri S.D. Dole, the learned Presenting Officers
for the Respondents.

W. S. Karpe

CORAM : SHRI A.P. KURHEKAR, MEMBER (J)

DATE : 18.10.2019.

JUDGMENT

1. The Applicant has filed the present O.A. challenging the impugned orders dated 26.02.2018 as well as 01.03.2018 being aggrieved by the appointment of Respondent No.5 to the post of Police Patil of Village Kauthali, Taluka : Uttar Solapur, District : Solapur.
2. The Respondent 3 - Sub Divisional Officer had published Advertisement on 20.11.2017 to fill-in the post of Police Patil of Village Kauthali, which was reserved for O.B.C. (Female) candidate. As per the Advertisement, the Application along with requisite documents was required to be submitted in between 20.11.2017 to 02.12.2017. The Applicant as well as Respondent No. 5 participated in the process of Written Examination as well as interviews were conducted and Respondent No. 5 found eligible for the appointment. However, the Applicant raised objection before Sub Divisional Officer that the Respondent No.5 is not eligible for appointment to the post of Police Patil. The SDO gave hearing to the Applicant as well as Respondent No. 5 and rejected her objection by order dated 26.02.2011 and appointed Respondent No.5 by order dated 01.03.2018. The Applicant has challenged these orders in the present O.A.
3. Heard Smt. Ujawala Karpe, the learned Advocate holding for Shri S.M. Kamtam, the learned Advocate for the Applicant and Shri A.J. Chougule with Shri S.D. Dole, the learned Presenting Officers for the Respondents. The Respondent No. 5 is served but did not appear.

4. The only ground raised during the course of hearing by the learned Advocate for the Applicant is that the Respondent No.5 had not submitted requisite documents along with the Application on cut-off date i.e. 02.12.2017. The learned Advocate for the Applicant pointed out that one of the main documents i.e. Non-Creamy Layer certificate was issued in her favour on 30.12.2017, and therefore, it is evident that same was not accompanied along with application to be submitted on or before cut-off date. It is also pointed out by the learned Advocate for the Applicant that in the Scrutiny Sheet, the Applicant was shown initially not eligible but later, she was shown provisionally eligible. He sought to contend that the Respondent No. 3 - SDO favoured the Respondent No. 5 in getting appointment to the post of Police Patil. This is the only submission advanced to assail impugned orders.

5. On the contrary, Smt. K.S. Gaikwad, learned P.O. submitted that at the time of scrutiny, the Respondent No. 5 had not submitted Caste Certificate as well as Non-Creamy Layer Certificate, and therefore, she was shown provisionally eligible for further process. Accordingly, the examinations were conducted and the Respondent No. 5 having secured highest marks was found eligible for appointment. As regards non-production of Caste Certificate and Non-Creamy Layer Certificate, she submitted that the Respondent No. 5 had submitted Original Certificates on 30.12.2017 and considering the difficulties faced by the candidates to secure Certificate from the concern authority, the time was relaxed by SDO being competent authority and there is no illegality in the process. The appointment order was issued on 01.03.2018.

6. In view of submission advanced by the learned Advocate for the Applicant the issue posed for consideration is whether on the ground of

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belated submission of Non-Creamy Layer Certificate, the appointment of Respondent No.5 to the post of Police Patil is illegal.

7. The Respondent No. 3 - SDO had filed Affidavit stating that considering the difficulties faced by all candidates in getting Caste Certificate and Non-Creamy Layer Certificate, time was granted for submission of the same. This decision of SDO was taken considering the difficulties of all candidates and it is not restricted to Respondent No.5 only. As such, this is not the case wherein due favour is shown only to selective candidates.

8. It appears from record that the Respondent No. 5 had applied for granting Non-Creamy Layer Certificate on 19.12.2017 and Certificate was issued on 30.12.2017. Accordingly, she had submitted Non-Creamy Layer Certificate with SDO, and thereafter, the SDO had issued appointment order on 01.03.2018. Indeed, the perusal of record produced by learned P.O. reveals that same concession for not filing Caste Certificate as well as Non-Creamy Layer Certificate before cut-off date was given to the Applicant considering her difficulties. She was also shown provisionally eligible to appear in the process. Suffice to say, it can be said that the SDO has shown undue favour with Respondent No.5 alone.

9. As such, only because Caste Certificate and Non-Creamy Layer certificate were not submitted along with application as per condition mentioned in Advertisement, it is will not render appointment to Respondent No.5 illegal. At any rate, the Appointing Authority had extended time for submission of Caste Certificate and Non-Creamy Layer Certificate considering the difficulties of all candidates. The Respondent No. 5 got Non-Creamy Layer certificate on 30.12.2017 and produced the same before SDO. On the date of appointment i.e. 01.03.2018, she had

complied all the requirements and there is no illegality in the order of appointment of Respondent No.5.

10. The totality of the aforesaid discussion leads me to conclude that the O.A. is devoid of merit. Hence, the following order.

O R D E R

- (A) The Original Application is dismissed with no order as to costs.
- (B) M.A.523/2018 which was filed for interim relief stands disposed of.

Sd/-

(A.P. Kurhekar)
Member(J)

Mumbai

Date : 18.10.2019

Dictation taken by :

N.M. Naik

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