

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.333 OF 2024

**DISTRICT: Solapur
Subject: Police Patil**

Smt. Supriya Suresh Fase,)
Age 42 Years, R/at Bhopsewadi, Jawala,)
Tal. Sangola, Dist. Solapur.)....**Applicant**

VERSUS

1. The State of Maharashtra, through)
Additional Chief Secretary, Home)
Department, Mantralaya,)
Mumbai 400 032.)
2. State of Maharashtra, through)
Principal Secretary, Revenue &)
Forest Department, Mantralaya,)
Mumbai 400 032.)
3. The Collector, Collector Office,)
Solapur, Collector Compound,)
1st floor, Main Building, Sidheshwar)
Peth, Solapur 413 001.)
4. Sub-Divisional Officer, Mangalweda)
Mangalweda Division, Mangalweda)
Dist. Solapur.)
5. Shri Vaibhav Ankush Mukare,)
R/at Bhopsewadi, Jawala,)
Tal. Sangola, Dist. Solapur.).....**RESPONDENTS**

Smt. Punam Mahajan, learned Advocate for the Applicant.

Smt. Archana B. K., learned Presenting Officer for the Respondents.

CORAM : Shri Ashutosh N. Karmarkar, Member (J)

DATE : 26.09.2024.

J U D G M E N T

1. The Applicant has prayed for setting aside the appointment order of Respondents No.5 dated 03.01.2024 and also the order dated 12.02.2024 passed by the S.D.O on complaint/representation of the Applicant. The Applicant also prayed for directing the Respondents to give appointment to the Applicant to the post of 'Police Patil', Village Bhopsewadi, Tal. Sangola.

2. According to Applicant, she belongs to S.B.C. Category. The Respondent No.4 has appointed Respondent No.5 Vaibhav Mukare on the post of Police Patil (S.B.C.) by order dated 03.01.2024 and the Respondent No.4 has rejected to reconsider the complaints of the Applicant vide order dated 12.02.2024. As per G.R. dated 22.08.2014 guidelines for appointment on the post of Police Patil are to be observed. The G. R. dated 23.08.2011 says that for the purpose of appointment on Police Patil written examination of 80 marks and oral interview of 20 marks is to be conducted. As per the said G.R., the Committee is formed to conduct oral interview. The Applicant has submitted application in response to advertisement for appointment on the post of 'Police Patil' at village Bhopsewadi, Taluka Sangola dated 14.09.2023 and 27.09.2023.

3. According to Applicant final result was declared by the Respondents by letter dated 02.01.2024. The Applicant secured 49.20 marks and the Respondent No.5 secured 50.80 marks. The details are as under :-

| Sr. No. | Name | Category | Marks secured in Exam. | | |
|---------|--|----------|------------------------|----------------|-------|
| | | | Written | Oral/Interview | Total |
| 1. | Shri Vaibhav Ankush Mukare (Respondent No.5) | SBC | 41 | 9.80 | 50.80 |
| 2. | Smt. Supriya S. Fase (Applicant) | SBC | 43 | 6.20 | 49.20 |

4. However, the details of marks allotted for oral interview are as under :-

| Sr. No. | Name | Category | MSCIT | MCC | NCC | NSS | Driving | Total | Oral |
|---------|--|----------|-------|------|------|------|---------|-------|------|
| 1. | Shri Vaibhav Ankush Mukare (Respondent No.5) | SBC | 1.00 | 0.00 | 2.00 | 0.00 | 1.00 | 4.00 | 0.80 |
| 2. | Smt. Supriya S. Fase (Applicant) | SBC | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1.20 |

5. The Applicant, Respondent No.5 and one Ms Sheetal have appeared for the post of 'Police Patil'. The Applicant has got highest marks. The Respondent No.4 has not appointed the Applicant and has appointed Respondent No.5 by misinterpreting G.R. dated 22.08.2014. He has given extra marks for NCC and NSS certificates and also for Driving Certificate which are not incorporated in G.R. In response to representation of Applicant dated 08.01.2024, the Respondent No.4 informed that policy/criteria for oral interview was decided by the Committee and marks are given accordingly.

6. According to learned Advocate for Applicant, the Applicant has given arbitrary treatment by giving extra marks to Respondent No.5 for NCC and NSS Certificates, Driving Certificate and MSCIT Certificate. The Respondent No.5 is appointed in contravention of GR dated 22.08.2014. The Committee has exceeded its power, and therefore, the selection of Respondent No.5 is malafide and illegal.

7. The Respondent Nos.1 to 4 have filed Affidavit in Reply. According to them, the Applicant has not secured highest marks than the Respondent No.5. The Committee has allotted marks in oral examination to the candidates on the basis of their educational qualification, other activities & skill etc. The Respondents have mentioned details of marks

obtained by all three candidates under different heads during oral examination. Therefore, the ground raised by the Applicant are misconceived.

8. The Respondent No.5 – Vaibhav Mukre seems to have been served by notice through post. The ‘Service Affidavit’ is filed by the Applicant. But Respondent No.5 did not appear.

9. I have heard both the sides. Smt. Punam Mahajan, learned Advocate for Applicant has submitted that the process of appointment of ‘Police Patil’ was to be undertaken as per G.R. dated 23.08.2011 and 22.08.2014. According to her, these GRs do not show that marks in the oral examination were to be allotted on the basis of education qualification, Driving and MSCIT Certificate or NCC and NSS Certificates.

10. Learned Advocate for Applicant has invited my attention to Page No. 86 of OA wherein marks in written and oral examination of Applicant and Respondent No.5 are given. She has submitted that the decision taken by the Committee for allotting marks under different heads in oral examination has no basis nor the said decision is as per GRs referred above.

11. Smt. Archana B. K., learned Presenting Officer for the Respondents has submitted that the marks in oral examination are given particularly on the basis of education qualification, other activities and skills. The decision in respect of allotting marks under different heads was taken by the Committee which was formed for oral examination.

12. It is undisputed fact that the Respondent No.4 -S.D.O has issued appointment order to Respondent No.5-Vaisbhav Mukre on the post of Police Patil (S.B.C.) vide order dated 03.01.2024. It is also not disputed that complaint/representation of Applicant dated 08.01.2024 was not

favorably considered by the Respondent No.4 as per order dated 12.02.2024.

13. Initially, Advertisement was published on 14.09.2023 for appointment of Police Patil at Village Bhopsewadi, Tal. Sangola. The Applicant and Respondent No.5 have applied for the said post. The impugned letter/order dated 12.02.2024 shows that present Applicant, Respondent No.5 and one Ms Sheetal Mukre were found eligible (page 21) in the written test. All the three candidates were called for interview on 27.12.2023. The said letter also shows that written test was to be conducted for 80 marks and oral test was for 20 marks as per G.R. dated 23.08.2011 and 22.08.2014. It also appears from the said letter dated 12.02.2024 that the Committee was formed for conducting both examinations.

14. Learned Presenting Officer has brought on record the copy of Minutes of Meeting of Committee Members and their decision dated 27.12.2023 to show how the marks are allotted under different heads during the oral examination/interview. Now, the only question to be determined as to whether the decision of Committee to allot marks under different heads i.e. education qualification, computer knowledge, other activities like NCC, NSS, Driving and Sports activity and skills during the oral interview is just and legal. The Applicant has come with the case that said decision of allotting marks for higher educational qualification/ NCC, NSS, Driving etc. are totally in contravention of G.R. dated 22.08.2014 or G.R. dated 23.08.2011.

15. G.R. dated 23.08.2011 and G.R. dated 22.08.2014 suggest the topics on which written examination is to be conducted. There is absolutely nothing in these G.R.s that during oral examination, the marks are to be allotted for other educational qualification, computer knowledge, NCC, NSS or Sports activity. The copy of decision of Committee for oral examination i.e 'Court Exhibit-1' refers to G.R. dated

23.08.2011. It is already discussed that this G.R. does not show that marks are to be allotted during oral interview under different heads of higher education qualification, computer knowledge, NCC, NSS, Driving, Sport activity etc. Even, the said G.R. does not show that the Committee Members are empowered to take their decision as to how marks are to be allotted during oral interview. Therefore, the decision of the Committee appeared to be without any basis. It appears that Respondent No.5 was given 1 mark for MS-CIT, 1 mark for having Driving License and 2 marks for NCC Certificate. So an act of allotting marks to the Respondent No.5 for MSCIT, NCC and Driving skill does not appear to be in consonance with any G.R. referred by the Respondents. The Applicant and Respondent No.5 have got total marks for written and oral tests as 49.20 and 50.80 respectively.

16. An interview is a 'Meeting' where the candidate is asked questions to assess suitability of candidate for job or other position. It can be used to evaluate the candidate's knowledge, skill, ability and interest in job. It appears that the Applicant, Respondent No.5 and third candidate Smt. Sheetal Mukre were given average marks in oral interview out of 2 marks. Other 18 marks were considered for having qualification of 10th standard, 12th standard, Graduation, MSCIT, NCC, Driving Skill etc. So the act of allotting marks under different heads does not appear to be on the basis of both G.R.s referred above by the parties.

17. The Advertisement shows that any candidate who has passed 10th standard examination would be eligible for the post of Police Patil. So the act of allotting marks on the basis of having higher education can be said to be irrelevant. It is not made clear in the Advertisement or even before the interview that the marks could be allotted in the manner as decided by the Committee. Therefore, the said act of allotting marks under different heads of educational qualification and other kind of education, skill and sports activity appear to be arbitrary.

18. The document at Annexure 'A-6' is revised programme for recruitment to the post of Police Patil. It shows that the scrutiny of documents of candidates and oral interview (तोंडी मुलाखात) was to be held from 26.12.2023 to 29.12.2023. So the words used in Marathi at Sr. No.6 (तोंडी मुलाखात) suggests that candidates were to be interacted orally to assess their performance. At that stage, the documents of candidates were scrutinized.

19. The discussion in forgoing paragraphs lead me to say that the manner in which oral interviews are conducted is in contravention of G.R. dated 22.08.2013 and G.R. dated 23.08.2011. So, the impugned order of appointing Respondent No.5 can not be said to be legal and needs to be set aside. The representation of the Applicant was not favorable to Applicant on the ground that criteria for allotting marks during oral interview was fixed by the Committee Members. The said criteria fixed by Committee members does not appear to be on the basis of G.R. dated 22.08.2013 and G.R. dated 23.08.2011. Therefore, the impugned order dated 12.02.2024 is also needs to be set aside.

20. The Applicant has prayed for her appointment as Police Patil in place of Respondent No.5. It is already discussed that out of 20 marks, 18 marks are considered for higher education, computer knowledge, NCC, Driving skill, sports activity etc. and the marks of oral interview seems to have been given out of 2 marks only. So it would not be appropriate to consider the relief of appointing Applicant in place of Respondent No.5. It is necessary to direct the Respondent Nos.1 to 4 to conduct oral interview of the candidates who were eligible in written examination and to take appropriate decision in this regard. Hence the following order :-

ORDER

- (A) The Original Application is allowed partly.
- (B) The impugned Order dated 03.01.2024 to 12.02.2024 are set aside.
- (C) The Respondent Nos.1 to 4 to conduct oral interview of candidates' who succeeded in written examination for the post of 'Police Patil', Village Bhopsewadi, Tal. Sangola and to take appropriate decision for appointing suitable candidate as per G.R. dated 22.08.2014 and 23.08.2011 within the period of one month from the date of order.
- (D) No order as to costs.

Sd/-
(Ashutosh N. Karmarkar)
Member (J)

Place: Mumbai

Date: 26.09.2024.

Dictation taken by: V.S. Mane

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