

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

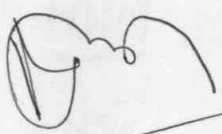
ORIGINAL APPLICATION NO.931 OF 2014

DISTRICT : KOLHAPUR

Sou. Sahirabanu Shabbir Mulani.)
Aged : Adult, Occu. Nil, R/o. Talandage,)
Tal.: Hatkanangale, Dist : Kolhapur.)
Address of Service of Notice :)
3rd Floor, Cooper Building, 106, Nagindas)
Master Road, Fort, Mumbai - 400 023.)...**Applicant**

Versus

1. The Sub-Divisional Officer,)
Ichalkaranji Sub-Division,)
Ichalkaranji & President of Selection)
Committee, Kotwal Bharti,)
Tal.: Hatkanangale, Dist : Kolhapur.)
2. The Society Welfare Officer, Kolhapur)
3. The Resident Naib Tahasiladar)
Hatkanangale, Dist : Kolhapur.)
4. The Revenue Naib Tahsildar.)
Hatkanangale, Dist : Kolhapur.)
5. The Collector, Kolhapur.)...**Respondents**

✓


Shri G.M. Savagave, Advocate for Applicant.

Shri K.B. Bhise, Presenting Officer for Respondents.

**CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)**

DATE : 20.12.2016


PER : R.B. MALIK (MEMBER-JUDICIAL)

JUDGMENT

1. The Applicant disputes the impugned order whereby her application was rejected for the post of Kotwal, Talang Dege, Taluka Hatkanangale, District : Kolhapur on the ground of absence of felicity in Marathi Language which for the said post according to the authorities is absolutely necessary. The Applicant also claims appointment to the said post.

2. We have perused the record and proceedings and heard Mr. G.M. Savagave, the learned Advocate for the Applicant and Shri K.B. Bhise, the learned Presenting Officer for the Respondents.

3. The Applicant claims to be the permanent resident of the Village above named. She had applied for the post of Kotwal which was pursuant to the



Advertisement (Jahirnama) dated 4.12.2013. Thereunder, an advertisement was issued for the said post for as many as 11 Villages falling within Taluka Hatkanangale. The Recruitment Rules vide the instrument of 5th September, 2013 is annexed to the Affidavit-in-rejoinder of the Applicant at Exh. 'A' (Page 80 of the Paper Book (PB)). The modified Rules for the said post came to be published thereby. The minimum educational qualification for the said post is 4th Standard and this, in our opinion, is quite pertinent because in the State of Maharashtra, even though there may be Schools imparting education in English medium or may be any medium other than Marathi, it needs to be clearly borne in mind that as far as the present matter is concerned, it relates to a small Village in Taluka Hatkanangale, District Kolhapur where it is a matter of common knowledge the medium of instructions would be Marathi. The requirement with regard to the age was between 18 to 40. A Committee was envisaged under the District Collector for nomination of Kotwals. It is further provided that there would be a written and the oral test of maximum 75 marks and 25 marks respectively. The matter of reservation would be dealt with in accordance with the GAD G.R. dated 29.3.1997 (100 Point Roster). It was specifically laid down



that thenceforth, there should be uniformity in the appointments for the said post.

4. Now, in the Advertisement, the educational qualification was 4th Standard and it was provided that those holding higher qualifications would be preferred. The said post was a full time one. The age limit was the same as mentioned hereinabove. There were certain other requirements running into 28 clauses. We may not be concerned with each one of them. The 15th Clause was that a written test would be held in Shri Ramrao Ingawale High School, Near S.T. Stand, Hatkanangale and the 18th Clause was regarding the heirs and LRs of the deceased Kotwal.

5. It is common ground that in so far as the nature of the duties of the said post of the Kotwal is concerned, they are in accordance with the GAD G.R. dated 8th November, 1973 (Pages 60-C and 60-D of the P.B.). Instead of paraphrasing and translating, we had better reproduced the same in Marathi itself, so as to have a clear and categorical grasp of the matter. The same reads as follows:

“कोतवालाची भरती व सेवा योजना यासंबंधीचे नियम”
महाराष्ट्र शासन सामान्य प्रशासन विभाग,
शासन निर्णय क्रमांक आरटीआय १०७२-२५६३५७
सचिवालय मुंबई कं.३२,



दिनांक ८ नव्हेंबर १९७३

शासन निर्णय

१) शासन निर्णय क्रमांक केओटी १०६९-६८२३२ व १ दिनांक १७ जानेवारी १९७० मध्ये जन्म मृत्यू उपजत मृत्यू व विवाह यांची माहिती दाव्याच्या कोतवालाने ग्रामपंचायतीच्या सचिवास पुरवावी असे आदेश देण्यांत आले आहेत.

२) काही ग्रामपंचायतींनी कोतवालांना ही माहिती ठराविक नमुन्यात (ग्रामपंचायतींनी दिलेल्या) लेखी पुरवावी असे आदेश दिलेले आहेत.

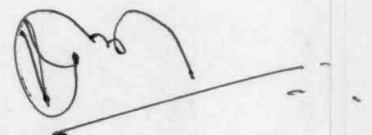
३) ग्रामपंचायतींनी दिलेले नमुने पहाणी व कोतवाल्यांच्या शैक्षणिक पात्रतेचा विचार करता शासन आदेश देत आहे की, कोतवालांनी जन्म, मृत्यू, उपजत मृत्यू व विवाह याबाबतची माहिती ग्रामपंचायत सचिवांना तोंडी कळवावी व त्याचप्रमाणे ग्रामपंचायत सचिवांनी ही माहिती नमुन्यात भरण्याचे काम यांचेकडील कर्मचा-यांकडून करून घ्यावे. असे आवश्यक वाटल्यास तोंडी माहिती कोणी दिली त्यांचे नाव नमूद करण्यात यावे.

महाराष्ट्राचे राज्यपाल यांचे आदेशानुसार व नावाने,

सही/-

अपर सचिव महाराष्ट्र शासन,
महसूल व वन विभाग''

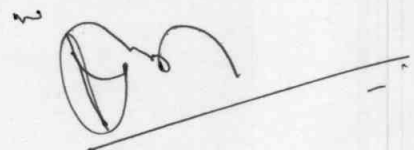
6. It is clear from the above G.R. that the Kotwals are supposed to furnish the details with regard to the birth, death, marriage, etc. and they have to act on written instructions from the concerned Gram Panchayats. As for the rest, the G.R. is self-explanatory. In our opinion, it is very clear, therefore, that in Villages like the one we are concerned with herein and regard being had to the situation thereof, the knowledge of Marathi has to be a necessary requirement and to insist on anything more in that behalf, would be an approach too pedantic to be true.



7. Now, the Applicant apparently cleared the examinations, if Exh. 'D' (Page 36 of the P.B.) is anything to go-by. At Exh. 'G' (Page 40 of the P.B.), it has been mentioned inter-alia that her name had been included in the concerned Employment Office that she was the resident of the said Village, that her form was in accordance with the reservation requirement, that she had annexed the Caste Certificate from the competent authority, that she was not an heir and LR of any Kotwal and that she had annexed the Character Certificate. At Exh. 'H' (Page 41 of the P.B.), her mark-list has been annexed which shows that she scored 2 + 2 + 2 + 1 + 1 and thus, 8 out of 25 marks. The documents bear it out that even as the final results in respect of all the other 10 Villages had been declared, but the Village that we are concerned with was such for which the result was withheld. Vide Exh. 'J' (Page 44 of the PB), it would appear that the Tahsildar sought guidance from the Collector in the matter in the backdrop of the fact that the place of birth of the Applicant was in the State of Karnataka and that at the time of the interview, she could not properly write sentences in Marathi nor could she read them. The Collector opined that the issue was within the competence of the Tahsildar himself, and thereafter, the Committee apparently met and the minutes of the meeting are at Exh.



'Q' (Page 57 of the PB). The meeting took place on 4.6.2014 and those that attended it have been mentioned by designation. It was recorded that the Applicant was born in the State of Karnataka and her education was through Urdu medium. Further, she was unable to properly write in Marathi whatever was mentioned and that she was unable to write it either. It was further mentioned that the Kotwal had to render assistance to the Talathi. The nature of the work was such that the entire official function takes place in Marathi, and therefore, the knowledge of Marathi was absolutely essential. The Applicant apparently was found wanting, and therefore, it was decided that she could not be appointed as a Kotwal. Based thereon, the impugned order dated 27.6.2014 (Exh. 'A', Page 18 of the PB) came to be issued informing that the Applicant was not eligible for being appointed as a Kotwal. At Exh. 'N' (Page 53 of the PB), there is a communication from the Applicant to the SDO and Tahsildar. It is in Marathi, but she has signed it in English. Pertinently, she signed her application for the said post also in English. The sum and substance of the communication is that for a number of Class IV category employees like those concerned with sanitary departments or equivalent, such a requirement was not prescribed, and therefore, she was apparently agitating for her appointment to the said post.



8. The above discussion based on the documents of unimpeachable veracity, in our view, would make it absolutely clear that insistence on the knowledge of Marathi in the facts and circumstances herein, is not something that can be called discriminatory. Even as the specific requirement of knowledge of Marathi was not included in the Advertisement, but in our opinion, as indicated above, it would be a pedantic approach were we to gloss over the fact that by the very nature of things in the light of the factors herein above discussed, the knowledge of Marathi would be absolutely essential. We thought, it would have been better if it was clearly mentioned in the Advertisement about the Marathi language. However, a technical or mechanical approach would be ill-advised. In fact, here, we are looking at a Village in Kolhapur District and for obvious reasons, had it been a Village, for example, in a place which earlier was in some other State before being included in Maharashtra after reorganization like a few Villages in Vidarbha Region or may be Marathwada Region that would have been a different matter altogether, but even here, the prejudice was an essential ingredient to be established, but here it does not appear to be so. In our opinion, a judicial notice has to be taken of the fact that the knowledge of Marathi for one holding the post of Kotwal in a place like the one we



are concerned with, has to be insisted on and no fault could be found with the Respondents, if they did that.

9. For the foregoing, the Original Application stands hereby dismissed with no order as to costs.

Sd/-

Sd/-

(R.B. Malik)
Member-J
20.12.2016

(Rajiv Agarwal)
Vice-Chairman
20.12.2016

Mumbai

Date : 20.12.2016

Dictation taken by :

S.K. Wamanse.

E:\SANJAY WAMANSE\JUDGMENTS\2016\12 December, 2016\O.A.931.14.w.12.2016.Selection Process.doc