

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.622/2019

DISTRICT: PARBHANI

Paraji s/o Gangadhar Jorule,
Age : 29 years, Occu. : Nil,
R/o. Pathra, Post. Pingali,
Tq. & Dist.Parbhani.

...APPLICANT

V E R S U S

1. The District Collector,
Parbhani.
2. The Sub Divisional Officer And
The President of Recruitment of
Police Patil Committee-2015,
Parbhani, Tq. & Dist. Parbhani.
3. The Tahsildar,
Parbhani, Tq. & Dist. Parbhani.
4. Pandurang s/o. Munjaji Palaye,
Age : Major, Occ : Agril.,
R/o. Pathra, Post. Pingali,
Tq. & Dist. Parbhani.

...RESPONDENTS

APPEARANCE :Shri S.D.Munde, Advocate for the
Applicant.

:Shri I.S.Thorat, Presenting Officer for the
respondent nos.1 to 3.

:Shri R.M.Lone, Advocate for the
respondent no.4.

CORAM : B. P. Patil, Acting Chairman

Reserved on : 16-01-2020

Pronounced on : 20-01-2020

J U D G M E N T

1. The applicant has challenged the order dated 22-05-2017 issued by the respondent no.2 in favour of the respondent no.4 appointing him as Police Patil of Village Pathra, Tq. & Dist. Parbhani and report dated 27-03-2017 submitted by the respondent no.3 and prayed to quash and set aside the same and direct the respondent no.2 to appoint him as Police Patil of Village Pathra, Tq. & Dist. Parbhani by filing the present O.A.

2. The applicant has submitted that he is resident of Village Pathra, Tq. & Dist. Parbhani. On 21-12-2015 respondent no.2 published an advertisement for filling up posts of Police Patil of different villages in Parbhani District including Village Pathra. The post of Village Police Patil Pathra was reserved for Female OBC but as per clause 19 of the advertisement if female candidate from reserved category is not available then male candidates can apply for the said post. It is also one of the conditions that candidates should not belong to any political party or should not be a member of Gram Panchayat. In pursuance of the said advertisement, applicant filed application for appointment on the post of Police Patil of Village Pathra.

Respondent no.4 had also filed application for the same post. Written examination of the aspiring candidates was held. Applicant secured 65 marks out of 80 marks in the written examination. He was called for oral interview along with respondent no.4 and other candidates. It is contention of the applicant that as per the advertisement if the candidate has any objection, he should submit the objection in writing before 12-02-2016 and hearing to the objection will be given on 15-02-2016 and the decision of the respondent no.2, President of the Selection Committee will be final. It is his contention that he himself and respondent no.4 appeared for oral interview. Thereafter, result of the examination has been declared. The applicant secured 75 marks in aggregate while respondent no.4 secured 70.40 marks. As the applicant secured highest marks, he ought to have been appointed on the post of Police Patil of Village Pathra.

3. It is contention of the applicant that the respondent no.4 was elected as Member of Village Panchayat, Pathra. Therefore, he had raised objection by filing application before the respondent no.2 on 10-02-2016 for cancellation of candidature of the respondent no.4. To give counterblow

to the application of the applicant, respondent no.4 raised objection on 12-02-2016 contending that the applicant is not resident of Village Pathra and he is resident of Village Loha, District Nanded. It is his contention that the respondent no.2 had issued notice dated 10-02-2016 to the applicant due to political pressure than on the objection raised by the respondent no.4 is dated 12-02-2016. It is his contention that in response to the notice the applicant has filed documents in support of his residential proof. Respondent no.2 conducted enquiry but had not given decision on the same. Therefore, the applicant approached this Tribunal by filing O.A.No.334/2016 seeking direction to respondent no.2 to issue appointment order in his favour. After hearing the matter, this Tribunal disposed of the O.A. and directed the respondent no.2 to complete the enquiry regarding residence of the applicant within 4 weeks from the date of order. While disposing the O.A. liberty was given to the applicant to approach the Tribunal if he is aggrieved by any action of the respondents.

4. It is his contention that this Tribunal has specifically directed the respondent no.2 to conduct the enquiry but the respondent no.2 had not conducted the enquiry and failed

to comply the order passed by this Tribunal. Instead of conducting the enquiry personally, respondent no.2 delegated the power to the respondent no.3 Tahsildar, Parbhani. The Tahsildar Parbhani conducted the enquiry under political pressure. He recorded the statement of witnesses as per his own will. The applicant had not given statement before him but the Tahsildar recorded the same as per his whims and will and submitted the report to the respondent no.2 on 27-03-2017. On the basis of said report, respondent no.2 issued appointment order in favour of respondent no.4. It is his contention that the respondent no.2 has not considered the fact that the applicant has secured highest marks in aggregate and he stood first in the merit list. Therefore, the impugned order of appointment passed in favour of the respondent no.4 is illegal. It is his contention that the respondent no.3 acted under political pressure and therefore report submitted by the respondent no.3 and impugned order dated 22-05-2017 appointing the respondent no.4 as Police Patil of Village Pathra are illegal. Therefore, he prayed to quash and set aside the same by allowing the O.A.

5. Respondent nos.2 and 3 have filed their affidavit in reply and resisted the contentions of the applicant. They

have not disputed the fact that the respondent no.2 issued advertisement dated 21-12-2015 inviting applications from eligible candidates for appointment on the post of Police Patil of different villages in Parbhani District. They have admitted the fact that the applicant, respondent no.4 and other aspiring candidates filed their applications for appointment on the post of Police Patil of Village Pathra. They have admitted the fact regarding the terms and conditions mentioned in the advertisement. They have admitted the fact that the applicant, respondent no.4 and other candidates appeared for written examination. In the written examination applicant secured 65 marks out of 80 marks. They have admitted that applicant was called for oral interview along with respondent no.4 and other candidates. After oral interview, result has been declared. They have admitted the fact that the applicant secured 75 marks in aggregate while respondent no.4 secured 70.40 marks in aggregate. The Respondent no.4 raised objection on 12-02-2016 regarding the candidature of the applicant by filing the application and alleged that the applicant is not resident of Village Pathra and he is resident of Village Loha, District Nanded. They have submitted that an enquiry was conducted in the matter. Thereafter, the

applicant approached this Tribunal and this Tribunal has issued directions to the respondent no.2 to conduct enquiry within stipulated time. They have admitted that the Tahslidar, Parbhani conducted the enquiry as per the direction given by the respondent no.2 and submitted his report. They have contended that the Tahsildar recorded statements of the applicant, respondent no.4 and other persons and submitted report and reported that the applicant is not resident of Village Pathra, Tq. & Dist. Parbhani and he is resident of Village Loha, District Nanded.

6. It is contention of the respondents that as per the G.Rs. dated 07-09-1999 and 23-08-2011, the Committee for recruitment of Police Patil has been formed and Tahslidar, Parbhani is Member Secretary of the Committee. As the respondent no.3 Tahsildar was member of the Selection Committee, the respondent no.2 directed him to make enquiry regarding the residence of the applicant and to submit report. Accordingly, the respondent no.3 conducted enquiry and submitted report to the respondent no.2. It is their contention that on the basis of the report submitted by the respondent no.3, respondent no.2 passed

order dated 19-05-2017 and allowed the objection raised by the respondent no.4 and rejected the application / candidature of the applicant and on the basis of the said order he issued the appointment order in favour of the respondent no.4. It is their contention that there is no illegality in the impugned order and they have justified the impugned order and prayed to reject the O.A.

7. Respondent no.4 appeared and failed to file affidavit in reply in the O.A. Therefore, the matter is proceeded without reply of the respondent no.4.

8. I have heard Shri S.D.Munde Advocate for the Applicant, Shri I.S.Thorat Presenting Officer for the respondent nos.1 to 3 and and Shri R.M.Lone Advocate for respondent no.4. I have perused the documents placed on record by both the parties.

9. Admittedly, the respondent no.2 Sub Divisional Officer, Parbhani issued advertisement dated 21-12-2015 inviting applications of the eligible candidates for appointment on the post of Police Patil of different villages in Parbhani District including Village Pathra. The post of Police Patil of Village Pathra was reserved for Female OBC

category. It has been mentioned in the advertisement that if Female OBC candidate is not available then the male candidates can apply for the said post. Admittedly, the applicant, respondent no.4 and other aspiring candidates filed application for appointment on the post of Police Patil of Village Pathra. Eligible candidates were called for written examination. In the written examination, applicant secured 65 marks. After written examination, applicant as well as the respondent no.4 and others were called for oral interview. Admittedly, on 10-02-2016 applicant filed application with the respondent no.2 raising objection regarding candidature of the respondent no.4. On 12-02-2016, respondent no.4 raised objection regarding the candidature of the applicant on the ground that he is not resident of Village Pathra. Respondent no.2 made enquiry in the applications. Oral interview of the applicant and respondent no.4 have been conducted and result was declared. The applicant secured 75 marks in aggregate while respondent no.4 secured 70.40 marks. As the respondent no.2 had not taken decision on the objections of rival parties and declared the selected candidate for the post of Police Patil, the applicant approached this Tribunal by filing O.A.No.334/2016 seeking direction to the

respondent no.2 to issue appointment order in his favour. Said O.A. came to be disposed of on 21-11-2016 with a direction to the respondent no.2 to complete the enquiry as regards residence of the applicant within 4 weeks from the date of order and take necessary action in view of the said report. Liberty was given to the applicant to approach the Tribunal if he is aggrieved by any action taken by the respondent no.2. On the basis of the said direction Tahsildar i.e. respondent no.3 made enquiry and submitted his report to the respondent no.2. Thereafter, the respondent no.2 has taken decision and allowed the objection of the respondent no.4 and rejected the candidature of the applicant and thereafter appointed the respondent no.4 on the post of Police Patil of Village Pathra, Tq. & Dist. Parbhani.

10. Learned Advocate for the applicant has submitted that the respondent no.2 had not acted in accordance with the direction given by this Tribunal in O.A.No.334/2016. He flouted the directions given by this Tribunal and delegated the powers to the respondent no.3 to conduct enquiry. Therefore, the report of the respondent no.3 cannot be acted upon. He has submitted that the Tahsildar

had not made enquiry independently. He acted under political pressure and therefore the report cannot be relied upon. He has submitted that the statements of witnesses and applicant were not recorded as per their version and said statements had been prepared as per the whims and will of the Tahslidar, Parbhani and therefore the same cannot be relied upon. The respondent no.2 has wrongly relied upon the report of the Tahsildar, Parbhani and appointed the respondent no.4 on the post of Police Patil of Village Pathra. Therefore, he has prayed to quash and set aside the same. He has submitted that there are several documents on record to show that the applicant is resident of Village Pathra but the respondent no.2 has not considered the same and arrived at a wrong conclusion. Therefore, he has prayed to quash and set aside the impugned order by allowing the O.A.

11. Learned P.O. and learned Advocate for respondent no.4 have submitted that in view of the direction given by the Tribunal in O.A.No.334/2016, Sub Divisional Officer, Parbhani directed the Tahsildar, Parbhani to make enquiry regarding residence of the applicant and to submit report. Accordingly, Tahsildar Parbhani conducted the enquiry and

after going through the documents he submitted report to the respondent no.2. On the basis of said report, the respondent no.2 decided the objection raised by the respondent no.4 by order dated 19-05-2017 and allowed the objection of respondent no.4 and held that the applicant is not resident of Village Pahtra. Therefore, he held that the applicant is not eligible for appointment on the post of Police Patil of Village Pathra. They have submitted that the applicant has not challenged the said order of the respondent no.2 and he has challenged the enquiry report dated 27-03-2017 and appointment order dated 22-05-2017. They have submitted that without challenging the order of respondent no.2 dated 19-05-2017 O.A. filed by the applicant cannot be considered and therefore they have prayed to reject the O.A. They have submitted that the respondent no.3 Tahsildar was Member Secretary of the selection committee and therefore the respondent no.2 directed him to make enquiry in the matter and there is no illegality in the same. Therefore, they have justified the report of the Tahsildar, Parbhani and prayed to dismiss the O.A.

12. On going through the documents on record, it reveals that this Tribunal has given direction to the respondent

no.2 to complete enquiry regarding residence of the applicant within 4 weeks from the date of order dated 21-11-2016 passed in O.A.No.334/2016. While passing the said order it has been observed by the Tribunal that the enquiry as regards residence of the applicant was pending with the Tahsildar and therefore such directions were given to the respondent no.2 i.e. Sub Divisional Officer to complete the enquiry within stipulated time. There is nothing on record to show that this Tribunal has specifically directed the respondent no.2 Sub Divisional Officer, Parbhani to make enquiry personally. The selection committee for selection of Police Patil was constituted in view of the G.Rs. dated 07-09-1999 and 23-08-2011. Tahsildar was Member Secretary of the selection committee while S.D.O. was Chairman of the committee. Respondent no.2 has rightly directed the Member Secretary to make enquiry regarding residence of the applicant. Respondent no.3 Tahsildar recorded statement of the applicant, respondent no.4, Sarpanch and other residents of the Village Pathra and submitted report dated 27-03-2017 to the respondent no.3 as per the directions given by this Tribunal in O.A.No.334/2016. I find no illegality in the procedure followed by the respondent nos.2 and 3 in that

regard. Entire enquiry has been conducted as per the directions given by this Tribunal. Therefore, it cannot be said that it is in violation of the directions given by this Tribunal. On the basis of enquiry report submitted by the respondent no.3, respondent no.2 has passed the order dated 19-05-2017 in the capacity of Chairman of the selection committee. He allowed the objections raised by the respondent no.4 and rejected the candidature of the applicant and accordingly appointed the respondent no.4 on the post of Police Patil of Village Pathra by the impugned order. The applicant has not challenged the order dated 19-05-2017 passed by the respondent no.2 allowing the objection of the respondent no.4. He is aware about the said order and without challenging the said order he has approached the Tribunal challenging the appointment order dated 22-05-2017 issued by the respondent no.2 in favour of the respondent no.4 and the report dated 27-03-2017. This shows that he has deliberately not challenged the order dated 19-05-2017 passed by the respondent no.2. It means that he has accepted the said order. The record shows that there is no illegality in the enquiry conducted by the Tahsildar, Parbhani and report submitted by him on 27-03-2017. On the basis of said report the respondent

no.2 has taken a conscious decision by recording sound reasons on 19-05-2017 and thereby allowed objection raised by the respondent no.4. On the basis of said decision he has issued appointment order in favour of the respondent no.4 on 22-05-2017. As the applicant is not resident of Village Pathra his candidature has been cancelled and he is held ineligible for appointment on the post of Police Patil of Village Pathra. I find no illegality in the impugned orders. Therefore, no interference is called for in the same. There is no merit in the O.A. Consequently, it deserves to be dismissed.

13. In view of the discussion in the foregoing paragraphs, O.A. stands dismissed without any order as to costs.

(B. P. PATIL)
ACTING CHAIRMAN

Place : Aurangabad
Date : 20-01-2020.