

FARAD CONTINUATION SHEET NO.  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE, BENCH AT AURANGABAD

**WRIT PETITION NO.433 OF 2015**

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| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. | Court's or Judge's orders |
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Mr.C.R.Thorat, advocate for the petitioner.  
Mrs.S.A.Dhumal, Asstt. Govt. Pleader for the State.

**CORAM : S.V.GANGAPURWALA &  
V.L.ACHLIYA, JJ.**  
**Date : 14.01.2015.**

**PER COURT :**

1. Heard.
2. Mr.Thorat, learned counsel submits that the advertisement which is given inviting applications for the post of Police Patil is not in consonance with the Government Resolution dated 16.10.2008. The said Government Resolution prescribes the manner in which the reservation has to be given. The post of Police Patil for village Sawantsar was shown reserved for Special Backward Class category. The highest population of village Sawantsar belongs to Scheduled Tribe category person. Thereafter second largest population is that of a Scheduled Caste persons, as such the said post could not have been reserved for Special

Backward Class person. The learned counsel further submits that the petitioner is a legal heir of Police Patil. On that ground he ought to have been given preference. The said aspect has not been considered by the Tribunal. According to the learned counsel, the Tribunal has imposed cost of Rs.5,000/- (Rupees five thousand). The petition was filed bonafidely prosecuting his right. There were no malafides in filing the said petition, as such the exemplary cost could not have been awarded.

3. Learned Asstt. Govt. Pleader supports the judgment and state that earlier also the petition was filed and withdrawn. However, on the same cause of action another petition is filed. The cost has been rightly imposed.

4. We have considered the submissions canvassed by learned counsel for respective parties. The petitioner belongs to OBC category. Even if the contention of the petitioner is accepted, the petitioner would not be benefited as OBC category persons do not have majority of population in the said village.

5. There is also no provision, wherein legal heir of Police Patil can claim as of right the post or any preference. In light of that, the order dismissing the original application can not be faulted with.

6. As far as imposing exemplary cost is concerned, it would be seen that the earlier Original Application was withdrawn with liberty to file fresh Original Application. The Tribunal had allowed

the petitioner to withdraw the Original Application with liberty to file fresh one. Pursuant to the liberty given, fresh Original Application is filed. It can not be said that the process has been held up unnecessarily at the instance of the applicant. It appears that the applicant was prosecuting his cause bonafidely.

7. In light of that, the order of the Tribunal impugned to the extent of cost is set aside. Rest of the order of the Tribunal is upheld.

8. The Writ Petition is disposed of. No costs.

**( V . L . ACHLIYA, J . )**

**( S . V . GANGAPURWALA, J . )**

Dt..14.01.2015  
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