

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 6036/2015

(TULSHIRAM DOGGI PUNGATI **VERSUS** STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri A.D. Patil and Shri V. Nylewar, counsel for the petitioner.
 Shri N.R. Rode, A.G.P. for the R-1 to 4.
 Shri Ashish Kadukar, counsel for the R-5.

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : OCTOBER 29, 2015.

By this petition, the petitioner challenges the order of the Maharashtra Administrative Tribunal, Nagpur dated 12.08.2015 allowing an original application filed by the respondent no.5 and setting aside the order appointing the petitioner as a Kotwal of village Tambda.

In pursuance of a proclamation issued by the Tahsildar on 13.05.2014, the petitioner and the respondent no.5 had applied for appointment on the post of Kotwal along with the other candidates. A due procedure of selection was undertaken and the respondent no.5 was selected for the post of Kotwal. The respondent no.5 had secured 69.5 marks, whereas the petitioner had secured only 46 marks. Certain villagers made complaints against the selection of the respondent no.5 on the ground that the respondent no.5 was not a permanent resident of village Tambda, where she was selected to work as a Kotwal. It was the case of the villagers that the respondent no.5 was a permanent resident of Etapalli. On the complaints made by the villagers, the Sub-Divisional Officer cancelled the order of selection of the respondent no.5 and appointed the petitioner on the post of Kotwal. The appointment of the petitioner was challenged by the respondent no.5 before the Maharashtra Administrative Tribunal. The

Maharashtra Administrative Tribunal by the order dated 12.08.2015 allowed the original application filed by the respondent no.5 and set aside the appointment of the petitioner on the post of Kotwal.

On hearing the learned counsel for the parties and on a perusal of the order of the Tribunal, it appears that there is no scope for interference with the order of the Tribunal in exercise of the writ jurisdiction. Under Rule 10 of the Rules for recruitment to the post of Kotwals, a person appointed as a Kotwal of the village is required to have a knowledge of the local conditions of the village and should be prepared to stay in the village of his appointment. The respondent no.5 was admittedly a resident of village Tambda before the husband of the respondent no.5 expired in the year 2010 and she shifted to the other village with her sons. The Tribunal, therefore, found that the respondent no.5 did have the knowledge of the local conditions of the village and the respondent no.5 was also prepared to stay in village Tambda, where she was selected to be appointed as a Kotwal. The Tribunal held, and rightly so, that the selection of the respondent no.5 was just and proper as the respondent no.5 was more meritorious than the petitioner, having secured 69.5 marks as compared to 46 marks secured by the petitioner. The Tribunal held that the respondent no.5 was a resident of Tambda for a period of more than six years but, she had to shift from Tambda after the death of her husband. The Tribunal found that the respondent no.5 had tendered several documents to show that the respondent no.5 was residing at Tambda and the voters' list pertaining to village Tambda showed that the respondent no.5 was still shown to be a voter from village Tambda. The Tribunal held that the legitimate claim of the respondent no.5 could not have been ignored by the Tahsildar and the Sub-Divisional Officer on the basis of the complaints made by the villagers that had no merit.

Since the order of the Tribunal is just and proper, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

APTE