

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4440 OF 2016

Amol Hiralal Kandelkar

..Petitioner

Versus

State of Maharashtra
and others

..Respondents

Mr.S.S.Bora, Advocate for the petitioner.

Mr.A.P.Basarkar, AGP for respondent Nos. 1 to 3.

CORAM : RAVINDRA V. GHUGE, J.

Dated : April 16, 2016

PER COURT :-

1. The petitioner is challenging the provisional selection list dated 06/04/2016 by which respondent No.4 has been placed at Sr.No.1 in the Select List and the petitioner has been placed at Sr.No.1 in the Wait List. The petitioner and respondent No.4 have applied for the position of Police Patil for village Rajure, Tal.Muktainagar, Dist.Jalgaon.

2. Mr. Bora, learned Advocate for the petitioner submits that the proclamation was published for inviting applications to the position of "Police Patil" on 02/11/2015 by respondent No.3. The candidates were called upon to fill in online forms in between 03/11/2015 to 19/11/2015. Clause 3 of the proclamation mandates that the

applicant should be a permanent resident of the said village. Clause 8 below the selection process and conditions mandates that the candidate must have an immovable property in the said village. Clause 6 mandates that the candidate should not be associated with any political party and must file an affidavit on a Rs. 100/- stamp paper declaring that he is not so associated.

3. Mr.Bora submits that respondent No.4 is not a resident of the village Rajure. Her caste certificate dated 26/02/2013 indicates that she is a resident of village Bhambori, Tal.Dharangaon, Dist.Jalgaon. Her mobile number is mentioned on the online form.

4. He draws my attention to page No.27 to indicate that it is a print out of the official website of the Bhartiya Janata Party and the said screen shot indicates the cellular number of respondent No.4 and her membership number with the Bhartiya Janata Party.

5. He, therefore, submits that respondent No.4, being a member of a political party, stands disqualified. Yet she has been placed at Sr.No. 1 in the provisional select list. He, therefore, submits that the respondents/authorities are likely to issue an appointment order in favour of respondent No.4.

6. The learned AGP draws my attention to the last paragraph on page no.1 of the public notice published by respondent No.3 by which it is provided that any complaint with regard to the selection process to the position of "Police Patil" shall be maintainable before respondent No.3. The petitioner has not availed of this alternate remedy. This petition, therefore, need not be entertained and the petitioner be relegated to the remedy available. He further submits that u/s 15 of the Administrative Tribunals Act, 1985, the petitioner can also approach the Maharashtra Administrative Tribunal.

7. Mr.Bora submits that the petitioner has no reason to avoid respondent No.3. He is willing to approach respondent No.3. However, in fairness, the respondents / authorities should not proceed to issue appointment orders to any candidate with regard to village Rajure, Tal.Muktainagar, Dist. Jalgaon.

8. I have considered the submissions of the learned Advocates.

9. Since an alternate remedy is available, it would not be appropriate for this Court to make any observations on the documents produced by the petitioner which indicate that respondent No.4 is a member of the Bhartiya Janata Party. However, at the same time, the respondents cannot be permitted to proceed to make any appointment

with regard to village Rajure since it would create further complications and the selected candidate would therefore be aggrieved if her selection is challenged.

10. Considering the above, this petition is disposed of with liberty to the petitioner to approach respondent No.3. In the event, the petitioner approaches respondent No.3 with his grievance with regard to the selection process within 2 weeks from today, the learned SDO shall then decide the complaint of the petitioner on its own merits and after hearing all the sides within a period of 8 weeks from the date of lodging the complaint. Until the decision of the SDO / respondent No.3 on the complaint of the petitioner, respondent Nos. 1 ,2 and 3 shall not proceed to issue any appointment order to any candidate for the position of Police Patil with regard to village Rajure Tal.Muktainagar, Dist.Jalgaon.

11. Needless to state that all the contentions of the parties are kept open. Learned AGP shall communicate this order to the learned Authorities forthwith.

(RAVINDRA V. GHUGE, J.)