

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4429 OF 2016

Bharat Pandurang Patil,
Age-43 years, Occu-Agriculture,
R/o Melsangave,
Dist.Jalgaon

..Petitioner

Versus

1. State of Maharashtra,
Through Home Department,
Mantralaya, Mumbai-32,
2. District Collector, Jalgaon,
Dist. Jalgaon,
3. Sub Divisional Magistrate,
Bhusaval Division,
Bhusaval,
4. Sanjay Trimbak Patil,
Age-36 years, Occu-Agriculture,
R/o Melsangave,
Taluka Muktainagar,
Dist.Jalgaon

..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 Melsangave, Tal.Muktainagar, Dist.Jalgaon.

2. Mr.Bora, the learned Advocate for the petitioner submits that a proclamation was published thereby calling for applications to the position of “Police Patil”. The petitioner as well as respondent No.4 had applied online. One of the conditions at Sr.No.6 for being selected is that no applicant should be connected with any political party. He shall file an affidavit on Rs.100/- stamp paper declaring that he is not associated with any political party. He further submits that respondent No.4 has not filed any affidavit for declaring that he is not connected with any political party. He further submits that the cellular phone number of every candidate has to be mentioned in the Online Application Form.

3. He submits that page 45 is the colour print out taken from the Official Website of the Bhartiya Janata Party, Maharashtra which is a screen shot indicating the cellular phone number of respondent No.5 and thereby displaying his membership number of the Bhartiya Janata Party.

4. He, therefore, submits that respondent No.4, being a member of a political party, stands disqualified. Yet he 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.

5. 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.

6. 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 Melsangave, Tal.Muktainagar, Dist. Jalgaon.

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

8. 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 Melsangave since it would create further complications and the

selected candidate would therefore be aggrieved if his selection is challenged.

9. 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.

10. 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 Melsangave, 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.)