

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 9271 OF 2015
IN
REVIEW APPLICATION ST. NO. 22816 OF 2015
IN
WRIT PETITION NO. 4964 OF 2011
WITH
REVIEW APPLICATION ST. NO. 22816 OF 2015
IN
WRIT PETITION NO. 4964 OF 2011**

Navnath Bhurasing Rathod .. Applicant

Versus

The State of Maharashtra and others .. Respondents

Shri Bhagwan V. Thombre, Advocate for the Applicant.
Shri B. V. Virdhe, A.G.P. for Respondent Nos. 1 to 4.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.
DATE : 26TH AUGUST, 2016.**

PER COURT :

. The applicant seeks review of the order dated 02nd August, 2011 thereby dismissing the Writ Petition No. 4964 of 2011. There is delay of near about three years and eleven months in filing the review application.

2. The original application came to be filed before the

Maharashtra Administrative Tribunal contending that the appointment of the present applicant as Kotwal is not in consonance with the advertisement. The said original application was partly allowed. Aggrieved thereby petitioner had filed writ petition. The writ petition was dismissed.

3. Mr. Thombre, the learned counsel for the petitioner states that, after the judgment was delivered by this Court, the petitioner had moved the Maharashtra Administrative Tribunal. The chronology of events has been given in the tabular format in the civil application. Because of the several proceedings been prosecuted, the delay is caused in filing the review petition.

4. Mr. Thombre, the learned counsel submits that, as per the recruitment rules governing the appointment of Kotwal, the person to be appointed as a Kotwal should have knowledge of the said area. The rules did not lay down a condition of the candidate who is selected should be residing in the said area. As the condition in the advertisement itself was against the rules, the said condition could not have been formed the basis for negating the case of the present petitioner. In similar matter, the respondent authorities have appointed the candidates as Kotwal, though they were not resident of the same village. The learned counsel submits that, this Court can consider the review application, if the judgment in the writ petition was delivered

under misconception of law and/or fact. The learned counsel relies on the judgment of the Apex Court in the case of Board of Control for Cricket in India and another Vs. Netaji Cricket Club and others reported in 2005 SC 592 (1).

5. We have heard the learned Assistant Government Pleader also.

6. The scope of review is in narrow compass. The petition for review cannot be considered as an appeal in disguise.

7. The Court while dismissing the writ petition had observed that, it was a condition in the advertisement itself that the candidate should be resident within Sajja of Nilajgaon. The village of the petitioner was three kilometer away from the said village. The notification dated 01st December, 2008 prescribes the condition. It was also observed by this Court that, the Tribunal has rightly considered the said aspect. It was further observed that, if any one of the condition is not satisfied by the selected candidate, then the said candidate cannot be appointed by the authorities. As there is no flexibility for the authorities to interpret differently regarding the condition referred in the relevant proclamation for selection of candidate on a particular post. This Court had taken a plausible view and confirmed the

judgment of the Tribunal.

8. In the light of that, review application along with application for condonation of delay is dismissed. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/August 16