

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1459/2016

Gajanan Bhimrao Pawar

...Versus...

State of Maharashtra, through its Secretary, Home Department, Mantralaya,
Mumbai and others

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

Court's or Judge's orders

Shri S.D. Chande, Advocate for petitioner
Mrs. K.R. Deshpande, AGP for respondent nos.1 and 2
Shri R.N. Ghuge, Advocate for Caveator/respondent no.6

CORAM : SMT. VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.

DATE : 04.04.2016

Heard.

By this writ petition, the petitioner impugns the order of the Maharashtra Administrative Tribunal, dated 22.1.2016 allowing the original application filed by the respondent no.6 and quashing the selection process initiated for the appointment of the Police Patil of village Dhorkheda and Ramnagar in pursuance of the proclamation dated 1.6.2015.

The respondents had issued a proclamation on 27.4.2015 inviting applications from the interested persons for appointment on the post of Police Patil of village Dhorkheda and Ramnagar. The petitioner as well as the respondent no.6 had applied for the post of Police Patil in pursuance of the said

proclamation. It is the case of the petitioner that the candidature of the respondent no.6 was rejected as she did not possess landed property. There were certain complaints in regard to the selection procedure and hence, a fresh proclamation was issued on 1.6.2015. It was, however, mentioned in the fresh proclamation that it was not necessary for the candidates, that had applied in pursuance of the first proclamation, to apply in pursuance of the second. In fact, it was mentioned in the second proclamation that if any candidate that had applied in pursuance of the proclamation, dated 27.4.2015 again applies in pursuance of the proclamation, dated 1.6.2015, his/her application would not be considered. In pursuance of the second proclamation, a selection procedure was conducted and the petitioner was selected for appointment on the post of Police Patil. The respondent no.6 challenged the selection/appointment of the petitioner on the post of Police Patil before the Maharashtra Administrative Tribunal. It was the case of the respondent no.6 that the respondent no.6 ought to have been permitted to appear at the written test conducted in pursuance of the second proclamation as she was not required to again apply in pursuance of the condition in the proclamation, dated 1.6.2015. Since it was held by this Court in the judgments, reported in **1993 (3) Mh.L.J. 594** and **2002 (3) ALL MR 841** that it would not be necessary for a candidate to possess a landed property for being appointed on the post of Police Patil, the candidature of the respondent no.6 ought to have been considered in pursuance of the second proclamation. The Maharashtra Administrative Tribunal allowed the original application of the respondent no.6 and quashed the proclamation,

dated 1.6.2015 as also the selection process that was conducted in pursuance of the same. The order of the Maharashtra Administrative Tribunal is impugned in the instant petition.

On hearing the learned Counsel for the parties and on a perusal of the impugned order, it appears that the view expressed by the Maharashtra Administrative Tribunal is a possible view and therefore, there is no reason to interfere with the same in exercise of the writ jurisdiction. It is held by this Court in the judgments, reported in **1993 (3) Mh.L.J. 594** and **2002 (3) ALL MR 841** that it would not be necessary for a candidate to possess the landed property for being eligible for appointment on the post of Police Patil. It appears that the candidature of the respondent no.6 was wrongly rejected after she had applied in pursuance of the first proclamation, dated 27.4.2015. Since the second proclamation was issued on 1.6.2015 and the candidates that had applied in pursuance of the first proclamation were not entitled to apply in pursuance of the second proclamation, it was necessary for the respondent – authorities to reconsider the candidature of the respondent no.6 for appointment on the post of Police Patil. However, this was not done by the authorities and the respondent no.6 was not permitted to appear at the written examination. The refusal on the part of the respondent – authorities in permitting the respondent no.6 to appear at the examination was challenged by the respondent no.6 before the Maharashtra Administrative Tribunal. The Tribunal rightly held that since it is not necessary for a candidate to possess the landed property for being eligible for the post of Police Patil, the candidature of the respondent no.6

could not have been rejected by the respondent – authorities. The Tribunal held and rightly so that it was necessary for the authorities to consider the candidature of the respondent no.6 for appointment on the post of Police Patil and permission ought to have been granted to her to appear at the written examination. Since a candidate was prohibited from applying again if he/she had applied in pursuance of the first proclamation, the Tribunal rightly held that the respondent no.6 could not have again applied in pursuance of the second proclamation. Since the candidature of the respondent no.6 was wrongly rejected, we do not find any fault in the order of the Tribunal in allowing the original application filed by the respondent no.6. Merely because the respondent no.6 has not raised any objection to the rejection of her candidature while the selection process was on, it cannot be said that the silence on the part of the respondent no.6 would nullify the illegality that was committed by the respondent – authorities. The judgments, reported in **2011 (1) Mh.L.J. 888** and **2002 (2) SCC 712** and relied on by the learned Counsel for the petitioner do not have any bearing on the issue involved in this case.

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

JUDGE

JUDGE