

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10572 OF 2014
(Archana Ankush Bhosale Vs. The State of Maharashtra and others)

Mr. Chetan Jadhav, Advocate for the Petitioner
Mr. P.N.Kutti, A.G.P. for respondent Nos.1 and 2/State
Mr. S.T.Shelke, Advocate for respondent Nos.3 and 4

CORAM : S.V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.

DATE : 30th MARCH, 2017

ORAL ORDER :

Heard.

2. Mr. Jadhav, the learned counsel for the petitioner submits that respondent No. 3 was not eligible to apply for the post of Police Patil of village Mogras. According to him, on 22nd November 2011, the petitioner raised an objection to the candidature of respondent No. 3 for the post of Police Patil of village Mogras. The written examination was conducted on 6th January, 2013. On 1st February, 2013, oral interviews were conducted and on 22nd February, 2013, final merit list of candidates was published. It is thereafter the inspection of the house of respondent No. 3 was

conducted by the Authority and final order on the objection of the petitioner was passed on 23rd August, 2013 i.e. after lapse of one and half year of the objection being raised by the petitioner.

3. The learned counsel for the petitioner submits that voluminous evidence was produced before the Authority and also before the Maharashtra Administrative Tribunal (for short, "Tribunal") to demonstrate that respondent No.3 is resident of Akole and not of village Mogras. The name of respondent No.3 appears in the voters' list of Akole. The son of respondent No.3 is taking education at Akole. The husband of respondent No.3 is serving at Akole. Even L.I.C. receipt shows respondent No.3 to be the resident of village Akole. In spite of such an overwhelming evidence, suggesting the residence of respondent No. 3 at Akole, respondent No. 3, as such, was ineligible to be considered for the post of Police Patil of village Mogras. One essential condition for appointment of a person as Police Patil is that he or she should be ordinarily resident of the village where the candidate is to be appointed as Police Patil. Even

as per the provisions of the Representation of Peoples Act, the ordinary residence of the candidate would be the place of residence of her husband. According to the learned counsel, the Tribunal has also committed error in ignoring the said evidence.

4. Mr. Shelke, the learned counsel for respondent Nos. 3 and 4 supports the impugned order passed by the Tribunal and submits that respondent No.3, who is selected as Police Patil of village Mogras, is ordinary and permanent resident of village Mogras.

5. We have considered the submissions canvassed by the learned counsel for the respective parties. We have also gone through the judgment delivered by the Tribunal.

6. There is no dispute about the proposition that a person to be appointed as Police Patil of a particular village has to be a resident of the said village. Upon perusal of the impugned judgment, it transpires that respondent No. 3 has placed on record the voters' list of the Zilla Parishad and Panchayat Samiti elections 2012 relating to village Mogras. The name of respondent

No. 3 appears in the said voters' list for the election of Panchayat Samiti as resident of village Mogras. It would also be seen that the job-card issued by the Gram Panchayat, Mogras showing respondent No. 3 to be resident of village Mogras. The postal pass-book produced by respondent No. 3 shows her address to be at village Mogras. The Election Commission's Identity Card is produced by respondent No. 3 showing her address as Mogras. So also Kisan Credit Card issued in favour of respondent No. 3 by Vividh Karyakari Seva Sahakari Society Ltd., Mograas. The gas agency card, which is in the name of husband of respondent No.3, is also produced on record by respondent No.3 which shows address of village Mogras. The pass-book of Savings Bank Account shows the address of respondent No.3 at village Mogras. The Certificate of Registration of motor vehicle of respondent No. 3 is produced which shows her address at village Mogras. Over and above that, respondent No. 3 was elected member of Gram Panchayat, Mogras during the period from 2004-05 to 2009-10. When respondent No. 3 was an elected member of Gram Panchayat, Mogras, being the resident of village Mogras, the said evidence would override all other evidence.

7. Considering the aforesaid documentary evidence on record, the Tribunal has arrived at a proper and plausible conclusion. Respondent No. 3 has secured more marks than the petitioner. The petitioner has secured 35 marks whereas respondent No. 3 has secured 63 marks. Respondent No. 3 certainly was more meritorious than the petitioner.

8. In the light of above, the Writ Petition is dismissed. No costs.

9. In view of disposal of the Writ Petition, Civil Application No. 4713/2016 stands disposed of.

[SANGITRAO S. PATIL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

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