

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

927 WRIT PETITION NO. 6238 OF 2018

SHIVAJI DIGAMBAR DADGE AND OTHERS ..PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

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Mr. Anand V. Indrale Patil, Advocate for the
Petitioners.

Mr. K. N. Lokhande, AGP for Respondent-State.

Mr. Sandeep B. Sontakke, Advocate for the
Respondent No.5.

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**CORAM : S. V. GANGAPURWALA &
S. M. GAVHANE, JJ.**

DATED : 06th SEPTEMBER, 2018.

PER COURT:-

1. Mr. Patil, learned counsel for petitioners submits that the petitioners had filed Original Application before the Maharashtra Administrative Tribunal, Aurangabad thereby challenging the appointment order issued in favour of respondent no.5 dated 17.02.2018 for the post of Police Patil of Village Bhatsangvi, Taluka Chakur, District Latur. The petitioners as per Rule 4(5) of The Central Administrative Tribunal (Procedure) Rules, 1987 filed an application seeking permission to sue jointly. The Tribunal rejected the said application. The learned counsel submits that common relief is prayed by all the petitioners and the petitioners are not seeking individual reliefs.

They are challenging the selection procedure to the extent of awarding indiscriminate marks in the oral interview in favour of respondent no.5 and not adhering to the proper procedure. The cause of action is joint, as such, the Tribunal ought to have allowed the petitioners to maintain common Original Application.

2. Mr. Sontakke, learned counsel for respondent no.5 submits that all the petitioners had participated in the selection process. They are claiming their individual rights. The right to sue is not common and the same would be an independent one. In view of that, the Tribunal has not committed any error in passing impugned order.

3. The learned A.G.P. also supports the order passed by the Tribunal.

4. It is not disputed that the petitioners and respondent no.5 had participated in the selection process for the post of Police Patil of village Bhatsangvi, Taluka Chakur, District Latur. The respondent no.5 is selected and appointed on the said post. The petitioners are assailing the selection of respondent no.5 mainly on the premise that the Authorities instead of proceeding with the earlier selection process, issued a fresh proclamation and further that in the oral interview he did not ask any question to the petitioners except their names and they were directed to leave. The respondent no.4 alone was present and there was

no other officer present in the office. One of the member of the oral interview committee had not signed the proceedings. The marks in the oral interview have been improperly given not adhering to the standards prescribed. The petitioners sought following reliefs:

"B) The impugned appointment order issued in favour of respondent no.5 dated 17th February, 2018 for the post of police patil of village Bhatsangvi, Ta. Chakur District Latur be quashed and set aside and for that purpose necessary directions be issued.

C) That, it be held and declared that, the marks given by the concerned committee for the oral interview to respective candidates appeared for the post in question are given indiscriminately and not on merits, accordingly, the said marks given by the oral selection committee be declared as illegal and bad in law. Consequently, respondents be directed to undertake fresh oral interview for conducting the oral test as per law and for that purpose necessary directions be issued."

5. If the petitioners would have assailed the selection of respondent no.5 vis-a-vis the claim of the petitioners independently to the said post and had sought appointment of the petitioners on the said post, then the same would tantamount to raising an individual grievance and independent claim. In that event, the petitioners certainly were required to file separate Original Application.

6. In the present case, the only grievance of the petitioners is that at the time of selection process the oral interview has not been properly conducted and have prayed for conducting the fresh oral interviews.

7. That Order 1 Rule 1 of the Code of Civil Procedure prescribes that all persons may be joined in one suit as plaintiffs where any right to relief in respect of, or arising out of, the same act or transaction or series of acts or transactions is alleged to exist in such persons, whether jointly, severally or in the alternative and if such persons brought separate suits, any common question of law or fact would arise.

8. Though, the provisions of Code of Civil Procedure would not be strictly applicable in the proceedings before the Tribunal the principles analogous to the same can be considered. Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987 also prescribes that the Tribunal may permit more than one person to join together and file a single application if it is satisfied, having regard to the cause and the nature of relief prayed for that they have a common interest in the matter.

9. In the present matter, if separate Original Application would have been filed by the petitioners, then common question of law and fact would arise. In such cases, all persons can

maintain one Original Application.

10. Considering, the contents of the Original Application and prayers made therein, the common question of law and fact would arise and as such the petitioners are entitled to maintain the joint Original Application.

11. In light of the above, the impugned order is quashed and set aside and the application filed by petitioners bearing Miscellaneous Application No.172 of 2018 in Original Application No.623 of 2018 is allowed. The applicants are allowed to prosecute the application jointly.

12. It is submitted that the court fees of all the applicants has been paid before the Tribunal.

13. Writ Petition is allowed. No costs.

(S. M. GAVHANE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/September-18

Devendra
Nandkumar
Kale

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by Devendra
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