

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1572 OF 2016

Shri. Balaso Dadu Dongale,
Age : Adult, Occupation-Nil,
R/o. A/P. Shendur, Tal. Kagal,
District-Kolhapur

....Petitioner

V/s.

1. The State of Maharashtra,
Through the Secretary,
Home Department, Having office at,
Mantralaya, Mumbai-400 032.

2. The District Collector, Kolhapur
Having Office at Udyog Bhavan
Assembly Road, Kolhapur.

3. The Sub-Divisional Magistrate,
Radhanagari-Kagal Division,
Having office at, New Administrative
Building, Kasaba Bawada Road,
Kolhapur.

4. The Tahsildar, Kagal,
Tal. Kagal, District : Kolhapur.

5. Shri. Biru Satyappa Bandgar,
Age : Adult, Occupation : Not Known,
R/O. A/P. Shendur, Tal. Kagal,
District : Kolhapur

....Respondents

* * * * *

Mr. Prashant Bhavake, Advocate for the petitioner.

Mr. Y.S. Khochare, AGP for State-respondents no.1 to 3.

Mr. Yuvaraj S. Gharat, Advocate for respondent no.4.

Mr. Ruturaj P. Pawar, Advocate for respondent no.5.

Coram : A.S. OKA, &

SANDEEP K. SHINDE, JJ.

Dated : 5th December, 2018.

JUDGMENT (PER : SANDEEP K. SHINDE, J)

1. Heard learned Counsel for the petitioner and learned AGP for State.

2. This petition under Articles 226 and 227 of the Constitution of India is preferred against the judgment and order dated 26th June, 2014 passed by the Maharashtra Administrative Tribunal in Original Application No. 313 of 2011.

3. FACTS :

. On 23rd April, 2010 a proclamation was issued under order 5 of the Maharashtra Village Police Patil's

(Recruitment, Pay, Allowances and Other Conditions of Service) Order, 1968 read with Section 5 of the Maharashtra Police Patil Act, 1967 whereby applications were invited by the Sub-Divisional Officer, Kolhapur for appointing Police Patil at Village-Shendur, Taluka-Kagal, District-Kolhapur. The post was reserved for the other backward Class candidates. The proclamation stipulates the eligibility and that selection was subject to written examination and interview. It is petitioner's case that, the proclamation was issued in the village by beating of drums stating the date upto which and the place at which the applications would be received and copy of it was affixed on the Village Chavadi. It is his case that, the proclamation was issued by beat of drums on 7th May, 2010. In support of his contention, he has relied on a Certificate dated 2nd December, 2010 issued by the Talathi. It is his case that, applications were to be submitted in the office of the Sub-Divisional Officer on/or before 23rd May, 2010. It is his case that, no one from the village had submitted the application in response to the said proclamation but he alone had applied for the said post. He would therefore contend that, he stood selected for the post

of Police Patil and as such sought a declaration of his entitlement to be appointed as a Police Patil at Village-Shendur.

4. It is the petitioner's case that, on 29th March, 2011 he was informed by the Sub-Divisional Officer that the respondents had decided to hold a written test in view of the Government Resolution dated 26th October 2010, and as such was apprehending that the respondents would commence the selection process. He thus approached the Administrative Tribunal by filing Application No. 313 of 2011 and sought a declaration that, he being the only candidate, was entitled to be appointed and sought directions to the respondents to appoint him in the post of Village Police Patil. Pending proceedings vide order dated 27th April 2011, the Tribunal restrained the respondents from commencing recruitment process afresh for the post of Village Police Patil at Village-shendur, Taluka-Kagal, District-Kolhapur.

5. The prayers were opposed by the State by filing affidavit-in-reply of one, Annaso Appaji Bhange. The State

contended in the reply that the villagers of the Village-Shendul reported to the Sub-Divisional Officer that the proclamation was never issued by a beat of drum in the Village-Shendur on 7th May, 2010. The State further contended that, the Sub-Divisional Office, Kagal, had received complaints/representation from villagers of Shendur, that proclamation was never issued and therefore they could not apply for the said post. That another group of villagers, submitted representation supporting the contention of the petitioner. Thus, having found that the entire process of issuing proclamation was suspicious, the respondents had decided to start the selection *de-novo*.

6. The Tribunal upon appreciating the evidence concluded that the suspicion regarding non issuance of the Proclamation was well founded. As a matter of practice, after proclamation by beat of drums, entry is required to be made in the 'Dawandi Register' and the Talathi is required to send extract of the Register to the Office of the Sub-Divisional Officer, as a proof of issuance of proclamation by beat of drum. That since this exercise was not undertaken, it was

one more circumstance to hold the process of selection was not free of suspicion. The Tribunal thus recorded a finding of fact that, proclamation was not issued in terms of the provisions of Order 5 of the Maharashtra Village Police Patil's (Recruitment, Pay, Allowances and Other Conditions of Service) Order, 1968. In view of this fact, the Tribunal dismissed the application and also held that, the selection for the post of Police Patil being highly competitive, it is inconceivable that only one person would apply.

7. That for the reasons stated hereinabove, we do not see any merit in the petition. It is dismissed with no order as to costs.

(SANDEEP K. SHINDE, J)

(A.S. OKA, J)