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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11562 OF 2017

Pratibha Kiran Sahane	...Petitioner
Vs.	
The State of Maharashtra & ors.	...Respondents

WITH

WRIT PETITION NO. 11563 OF 2017

Dyaneshwar Sukdev Sabale	...Petitioner
Vs.	
The State of Maharashtra & ors.	...Respondents

WITH

WRIT PETITION NO. 11564 OF 2017

Kailas Nivrutti Ghule	...Petitioner
Vs.	
The State of Maharashtra & ors.	...Respondents

WITH

WRIT PETITION NO. 13944 OF 2017

Yogeshwar Somnath Kedar	...Petitioner
Vs.	
The State of Maharashtra & ors.	...Respondents

WITH

WRIT PETITION NO. 13945 OF 2017

Shantaram S. Kokate	...Petitioner
Vs.	
The State of Maharashtra & ors.	...Respondents

WITH
WRIT PETITION NO. 13946 OF 2017

Ashok Dhondiba Dhonnar	...Petitioner
Vs.	
The State of Maharashtra & ors.	...Respondents

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Mr. Uday P. Warunjikar, Advocate for the petitioners.

Mr. O.M. Kulkarni, AAGP for the respondents.

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CORAM : SMT. V.K. TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.

DATE : 5th JANUARY, 2018.

ORDER (PER M.S. KARNIK, J.) :-

The present Writ Petitions arise out of a common judgment and order dated 11th August, 2017 passed by the Maharashtra Administrative Tribunal in O.A.Nos. 1069 of 2016, 1070 of 2016, 1071 of 2016, 1072 of 2016, 1073 of 2016 and 1074 of 2016.

2. The petitioners filed O.As. before the Tribunal relating to the appointment of the Police Patils of six different villages in Nashik District. The petitioners were selected pursuant to an interview held. In view of the objections raised

by certain unsuccessful candidates who also had participated in the selection process, the Sub-Divisional Magistrate, Niphad was directed by the Collector, Nashik to conduct inquiry into the complaints made against the said selection. By a communication dated 27/6/2016 addressed to each of the petitioners, the respondent No.3 called them for re-interview. This was challenged before the Tribunal in an earlier round of litigation. Subsequently a statement came to be made before the Tribunal that the letters calling the petitioners for interview are withdrawn.

3. An inquiry was conducted into the selection process by the Committee under the Chairmanship of the 3rd respondent viz. Sub-Divisional Magistrate, Niphad on 14/7/2016. The Committee came to the conclusion that no fault could be found in the said selection, therefore, the selection procedure is not liable to be questioned. However, the Committee was of the view that as the complaints were made showing no confidence on the selection committee and in view of the fact that the findings of

the inquiry report may not be acceptable to the complainants, the Committee was of the opinion that fresh interviews should be held by some other Committee. By a communication dated 7/1/2017, the Collector informed the 3rd respondent that it is the 3rd respondent who is the competent authority under The Maharashtra Village Police Act, 1967 (hereinafter referred to as “the said Act”) and therefore, he was directed to take an appropriate decision at his level. It was pointed out that the then SDO has been transferred and his successor had been appointed and therefore, he was competent to re-interview the candidates for the post of Police Patil and he was directed to do the needful.

4. The petitioners challenged this decision before the Tribunal. The Tribunal was of the view that the report of the inquiry committee has to be read as a whole and as the committee has recused itself there is nothing wrong if the Collector has directed the SDO to hold re-interviews. The Tribunal refused to interfere with the decision and dismissed the O.As.

5. We have heard learned Counsel for the petitioners and learned AGP for the respondents. We have gone through the inquiry report of the committee which inquiry was held on 14th July, 2016. It is not in dispute that the committee has come to the conclusion that there was nothing illegal or wrong with the selection process in which the petitioners were selected as Police Patils. It appears that it is only on the assumption that the select list may face legal hurdles in future that the Committee decided to recuse itself from conducting re-interviews. Another reason given by the Committee is that the complainants have shown no confidence in the Committee.

6. We find that the Tribunal has virtually assigned no reasons while dismissing the O.As. The Apex Court in the case of K.H. Siraj Vs. High Court of Kerala & ors., 2006 (6) SCC 395, has held that it is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of

interview was unfair or the Selection Committee was not properly constituted.

7. In the present case, the Committee which conducted inquiry having come to the conclusion that there was nothing wrong in the selection process, the Tribunal, in our opinion, should have examined whether the respondents are justified in again calling the candidates for re-interview only on the ground that the complainants showed no confidence in the Committee.

8. We are, therefore, of the opinion that the order passed by the Tribunal calls for interference and the matter needs to be remitted back to the Tribunal for fresh consideration of the O.As. on merits. Learned Counsel for the petitioners undertakes to make an appropriate application before the Tribunal to implead the complainants who are likely to be affected as party respondents before the Tribunal.

9. Hence the following order :-

ORDER

- a. The impugned order dated 11/8/2017 passed by the Tribunal in O.A.Nos.1069 of 2016, 1070 of 2016, 1071 of 2016, 1072 of 2016, 1073 of 2016 and 1074 of 2016 is quashed and set aside.

- b. O.A.Nos.1069 of 2016, 1070 of 2016, 1071 of 2016, 1072 of 2016, 1073 of 2016 and 1074 of 2016 are remitted back to the Tribunal for deciding the same afresh on its own merits and without being influenced by any observations made in this order.

- c. The status quo as on today be maintained for a period of six weeks by the respondents.

- d. The petitioners are at liberty to make an appropriate application for grant of interim reliefs before the Tribunal. If such application is made, the same to be considered by the Tribunal on its own merits.

e. The Writ Petitions are disposed of in the above terms with no order as to costs.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)