

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10090 OF 2019

Shri Revansinddh Mallappa Nyamgonde .. Petitioner

Vs.

State of Maharashtra
& Anr.

.. Respondents

Mr.M.A. Choudhari for petitioner.

Ms.R.M. Shinde, APP for respondent No.1-State.

**CORAM : RANJIT MORE &
N.J. JAMADAR, JJ.**

DATE : 18TH SEPTEMBER 2019

P.C.

1. Heard the learned counsel for the petitioner and the learned APP for the State.

2. By this petition, the petitioner challenges the order passed by the Maharashtra Administrative Tribunal, Mumbai ('MAT') on 19th August 2019 in Original Application No. 1112 of 2018. The said order is passed at the instance of the respondent No.4-Audumbar Mhalappa Mali. The learned Member of MAT, by the said order, directed the Sub-Divisional Magistrate, Mangalvedha, Dist. Solapur to decide which is the correct answer of Question No.26 of Written Examination paper for the post of Police Patil. It was further directed that if the answer of the applicant, i.e., respondent No.2 herein, is found correct, then he should pass further appropriate order about the cancellation as well as appointment of

appropriate person to the post of Police Patil on the basis of marks on merits.

3. The learned counsel for the petitioner submitted that the petitioner and the respondent No.4 have applied for the post of Police Patil. The petitioner and the respondent No.4 appeared for the written examinations and both got equal marks, i.e., '74 marks out of 100'. However, the petitioner, being senior in age, was appointed as Police Patil.

4. The grievance of the respondent No.4 is that in Answer Key itself, the answer mentioned to question 26 was incorrect. It was further stated that the respondent No.4 answered the said question correctly. However, because of the incorrect answer key, the marks of the respondent No.4 got reduced by '1' and if correct answer was considered, the marks of the respondent No.4 would have been more than that of the petitioner and, therefore, he would have been selected. The question 26 of the written examination reads as under :-

“26) ग्रामपंचायतचे अधिकार वाढवून देणारी घटना दुरुस्ती कोणती .

A) 42 वी B) 44 वी C) 72 वी D) 73 वी ”

5. The question No. 26 of the written examination pertains to the constitutional amendment which enhanced the rights/powers of the grampanchayat, and from the four options given, the answer key provided that the correct answer is option '**C'- 72**'. The respondent No.4 did not opt

for option “C”. He states that he answered the said question correctly by opting option ‘D’ 73rd Amendment’.

6. It is observed that in the answer key of the question paper, the answer mentioned to Que.26 was incorrect. It is also clear that the answer to that question was correctly given by the respondent No.4. However, the respondent No.4 got less marks in the evaluation than that of the petitioner. The respondent No.4 made a representations to the Sub-Divisional Magistrate on 17th January 2018 and 6th September 2018, respectively, raising the grievance referred hereinabove. The said representations were disposed of. Therefore, the respondent No.4 approached MAT by filing the original application No.779 of 2018. The learned Member, MAT passed an order on 27th August 2018 and directed the Sub-Divisional Magistrate to consider the representations of the respondent No.4 and look into the matter on merit and inform the decision taken within a period of two months. Since, the Sub-Divisional Magistrate did not comply with this order, the respondent No.4 was compelled to move MAT again by filing Original Application No. 1112 of 2018 and the order passed therein is impugned in the present writ petition.

7. The petitioner has not challenged the order dated 27th August 2019 passed by the learned Member, MAT in Original Application No. 779 of 2018. The order impugned in the present petition is a consequential order to the order dated 27th August 2018. Even on merits, we are satisfied

that the impugned order is correct. We are, therefore, not inclined to entertain this petition and the same is accordingly dismissed.

[N.J. JAMADAR, J.]

[RANJIT MORE, J.]