

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10251 of 2019**

Shri Uttam Baban ShindePetitioner
versus
The State of Maharashtra and ors.Respondents

Mr. Uday B. Nighot, advocate for the petitioner.
Mrs. M. P. Thakur, AGP for the State.
Mr. Harshal Damania along with Ms. Gulestan Dubash, advocate for
respondent No.3.

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

DATE : 30th SEPTEMBER, 2019.

P. C. :

1. Heard learned counsel for the petitioner and learned counsel
for respondent No.3.

2. By the impugned order, the Member, Maharashtra
Administrative Tribunal (for short “the MAT”) quashed and set-aside the
petitioner’s appointment to the post of Police Patil and respondent No.2
was directed to issue appointment order to respondent No.3 to the post of
Police Patil. The merit list is annexed at Exhibit G, page 46. The
petitioner secured total 93 marks, out of which, he scored 75 marks in
written examination and 18 marks in oral test. Respondent No.3 secured
total 89 marks, out of which, he scored 78 marks in written examination

and 11 marks in oral test. The petitioner, therefore, initially was appointed to the post of Police Patil. His appointment was challenged by respondent No.3 by filing application before the MAT. The member of MAT concluded that 5 marks given to the petitioner on account of excellency in sports and computer course could not have been given and consequently came to the conclusion that the total marks secured by petitioner are 88 and, on the contrary, respondent No.3 secured 89 marks. In consonance with this finding, the impugned order was passed and thereby, the appointment of the petitioner was quashed and set-aside and respondent No.2 was directed to appoint respondent No.3 to the post of Police Patil.

3. Mr. Nighot, learned counsel for the petitioner, invited our attention to the advertisement inviting application for the post of Police Patil, which is annexed at "Exhibit-A", page 15 and submitted that respondent No.3 was not eligible to be appointed to the post of Police Patil as he was office bearer of a Co-operative Society. He invited our attention to the list of members of the managing committee of Javale Vividh Karyakari Seva Sahakari Society Limited and submitted that respondent No.3 was office bearer of the said society and, therefore, he is not eligible. We have perused the said list. The name of respondent No.3 is nowhere shown as the member of the managing committee. He is, however, shown as advisor of the said society. By no stretch of

imagination, advisor can said to be a member of the managing committee of the society and, therefore, the contention of Mr.Nighot, in this regard, has no merit.

4. Mr. Nighot, learned counsel for the petitioner, also invited our attention to the certificate at page 82 of Om Electro Computer System to contend that the petitioner was rightly granted 1 mark on account of completion of computer course. Having perused the same, we do not agree with the submission of Mr. Nighot since as per the requirement mentioned in the advertisement, eligibility for additional marks on this count requires certificate of MS-CIT or equivalent computer certificate course. In the present case, the petitioner, however, produced the certificate issued by one institute by name Om Electro Computer System showing that he has completed the computer basic course from the said institute. The certificate does not show that the petitioner passed any recognized examination from any approved institution and, therefore, learned member of MAT rightly ignored 1 mark, which was given to the petitioner on this count.

5. Mr. Nighot, learned counsel for the petitioner, lastly invited our attention to the certificate at page 37 and submitted that at least 2 marks ought to have been granted to the petitioner as sport certificate was issued by the member of Late Nivruttisheth Sherkar Private Industrial

Training Institute. This submission also has no merit as, what is required under the advertisement, is certificate of District Sports Officer.

6. Taking totality of the facts and circumstances of the case into consideration, we do not find any error in the impugned order, which warrants interference in the writ petition. The petition is devoid of any merit and, same is dismissed as such.

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]