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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9114 OF 2022

Gawade Dinesh Balasaheb ...Petitioner
Versus
Gawade Sachin Dattatray & Ors ...Respondents

Ms Mrinal A Shelar, *for the Petitioner.*
Mr Atish S Kaningdhvaj, *for Respondent No. 1.*
Mr BV Samant AGP, *for the State.*

CORAM G.S. Patel &
Gauri Godse, JJ.
DATED: 4th August 2022

PC:-

1. The Writ Petition Challenges an order of the Maharashtra Administrative Tribunal (“**MAT**”) passed on 13th July 2022. By that order the MAT quashed and set aside an order of 28th January 2021 passed by the Sub-Divisional Officer (“**SDO**”) Khed Division and another order of 10th August 2020. The challenge before the MAT was by the present 1st Respondent, Sachin. As both the Petitioner and the 1st Respondent share the same surname, we will refer to them by their first names. The present Writ Petitioner, Dinesh, was the 2nd Respondent before the MAT. By the SDO’s order of 10th August 2020, the SDO cancelled Sachin’s appointment to the post of Police Patil. By the order of 28th January 2021,

Dinesh was appointed to that post. MAT also ordered the Sachin's appointment or reinstatement as the Police Patil.

2. Dinesh comes before us seeking our intervention under Article 226 and 227 of the Constitution of India.

3. Sachin argued before the MAT that the entire basis of the cancellation of his appointment was erroneous. At the instance of Dinesh, the SDO proceeded on the basis that the certificates that Sachin obtained from the Dnyaneshwar Vidyalaya & Junior College and for the Maharashtra Cadet Corps ("MCC") or Maharashtra Chhatra Sena were forged or false documents. The question before the MAT was as to which of the two persons had the higher marks. Sachin had obtained 78 marks excluding the additional marks he received for participation in the MCC and on the basis of certificates from the Dnyaneshwar Vidyalaya. Sachin had 68 marks in the written examination and 15 in the oral examination, and additional marks for participation in MCC and for participation in district level sports. This took him to 83 marks. Dinesh on the other hand had a total of 77 marks. It was Dinesh's case that Sachin's certificates were forged. This is where the enquiry before the SDO seems to have gone wrong. The SDO enquired with the Dnyaneshwar Vidyalaya but the query was in respect of a certificate supposedly dated 30th April 2016. The Dnyaneshwar Vidyalaya replied saying they had issued no certificate of that date. This was the mistake. The relevant certificate was of 30th April 2004 and Dnyaneshwar Vidyalaya later clarified that Sachin had indeed participated but that the Dnyaneshwar Vidyalaya's own records were by then unavailable.

The MAT rightly concluded that from this one could not presume a forgery of the Dnyaneshwar Vidyalaya's Certificate.

4. So far as the certificate issued for district level sports for which additional marks were given, this was under the signature of the President, Secretary and Treasurer of the relevant committee. The Secretary was one Narendra Patil. He had, on 15th October 2019, stated that Sachin had indeed participated in Dhule District Athletics. The MAT therefore concluded, and quite correctly in our view, that the SDO's observation that the Dhule District Athletics Association certificate was 'forged' was incorrect.

5. The MAT also correctly noted that the additional marks were an additional qualification and not eligibility criteria. Thus, even assuming that all these additional certificates were ignored, the arithmetical result still was that Sachin would have been ahead of Dinesh because Sachin had 78 marks as against Dinesh's 77 marks.

6. It is for this reason that the MAT cancelled and passed the impugned order.

7. We see no infirmity in the impugned order. The Petition is without merit. It is rejected. There will be no orders as to costs.

(Gauri Godse, J)

(G. S. Patel, J)