

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

WRIT PETITION NO.11039 OF 2022

Ashok Roasaheb Uttare

... Petitioner

vs.

State of Maharashtra and ors

... Respondents

Mr. Rajeshwar Panchal a/w Mr. Sagar Kasar, Mr. Sachin Patil
i/b. V.M.K. Legal for Petitioner.

Mr. B. V. Samant, AGP for the Respondent – State.

Mr. B.A. Lawate for Respondent No.4.

**CORAM : S.V. GANGAPURWALA, ACJ. &
SANDEEP V. MARNE, J.**

RESERVED ON : 31 JANUARY, 2023

PRONOUNCED ON : 03 FEBRUARY, 2023

P.C. :-

1. Petitioner challenges judgment and order dated 29th April 2022 passed by the Maharashtra Administrative Tribunal, Mumbai (“**Tribunal**”) in Original Application No.698 of 2021 dismissing the Original Application filed for seeking appointment to the post of Police Patil at Village Padoalkarwadi, Taluka Mangalvedha, District Solapur.

2. Petitioner participated in the selection process for appointment to the post of Police Patil at Village

Padoalkarwadi, Taluka Mangalvedha, District Solapur convened vide advertisement dated 24th August 2018. He came to be selected by securing 73 marks in the selection process as against 62 marks secured by Respondent No.4. Howsoever, a complaint came to be lodged with Sub Divisional Officer (“**SDO**”) alleging that Petitioner is not a resident of Padoalkarwadi, but the resident of Village Konikonur, Taluka Jat, District Sangli. Upon conducting an enquiry, the SDO submitted a report holding that Petitioner is not resident of Village Padoalkarwadi. Accordingly, by order dated 10th December 2018, Petitioner’s appointment /selection to the post of Police Patil came to be cancelled. Original Application No.143 of 2019 was instituted challenging order dated 10th December 2018, which came to be disposed of by order dated 4th September 2019 remitting the matter back to the SDO to decide the complaint afresh by granting an opportunity of hearing to Petitioner. The SDO thereafter passed order dated 23rd February 2021 once again holding that the Petitioner is not a resident of Village Padoalkarwadi and therefore not eligible for appointment to the post of Police Patil at Village Padoalkarwadi. Order dated 23rd February 2021 passed by the SDO became subject matter of challenge in Original Application No.698 of 2021 filed by Petitioner. The Tribunal, by its

judgment and order dated 29th April 2022, has proceeded to dismiss the Original Application No.698 of 2021 filed by Petitioner. Hence, this Petition.

3. The short issue which was arose before the Tribunal and which again arises for our consideration in the present Petition is whether a conclusion could be drawn by the SDO on the basis of documents produced by the rival parties, that Petitioner is resident of Village Padoalkarwadi.

4. The learned counsel appearing for Petitioner has placed on record a list of 14 documents which according to him conclusively proves Petitioner's residence at Padoalkarwadi. He would further submit that the SDO erroneously took into consideration the documents of Petitioner's father for arriving at conclusion that Petitioner is resident of Village Konikonur. He has submitted that there was only one document relating to Petitioner in respect of Village Konikonur viz. certificate of residence issued by the office of Gramsevak, Konikonur, which according to him is a fake document.

5. Petition is opposed both by the learned AGP appearing for the State Government as well as by the learned counsel

appearing for Respondent No.4. It is submitted that most of the documents produced by Petitioner relating to Village Padoalkarwadi are created after issuance of advertisement.

6. We have heard learned counsel for the parties and have perused the records of the case. Upon being questioned as to how Petitioner's father is a resident of Village Konikonur, the learned counsel for Petitioner submitted that Petitioner always resided with his maternal uncle at Padoalkarwadi and also married uncle's daughter. However, when his attention was drawn to the ration card of his father including Petitioner's name, there is no satisfactory answer to this discrepancy, which disproves the theory of Petitioner residing with his maternal uncle. We have also gone through various documents relied upon by Petitioner in support of his claim of resident of Village Padoalkarwadi. The identity card issued by the Election Commissioner as well as voter list do not bear any date and therefore do not prove Petitioner's residence at Village Padoalkarwadi prior to issuance of advertisement. Rest of the documents are issued after publication of the advertisement. It appears that Petitioner has purchased the property at Village Padoalkarwadi on 8th October 2018, after issuance of advertisement dated 24th August 2018. It does appear that

Petitioner has attempted to create evidence of residence of Village Padoalkarwadi after issuance of the advertisement.

7. There are documents pertaining to both Villages Padoalkarwadi and Konikonur. After considering the said documents, both the SDO as well as the Tribunal have arrived at conclusion that Petitioner is not a permanent resident of Village Padoalkarwadi. We, exercising writ jurisdiction under Articles 226 and/or 227 of the Constitution of India, cannot sit in appeal over findings of fact recorded by SDO as well as by the Tribunal.

8. No case is therefore made out by Petitioner for interference by this Court. The Tribunal has not committed any error in dismissing the Original Applications filed by Petitioner. Petition is devoid of merits. It is dismissed without any orders as to costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)