



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10148 OF 2024

SHEETAL MANOHAR MORE
VERSUS
THE SUB DIVISIONAL OFFICER AND ANOTHER

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Shri Ajay S. Deshpande, Advocate for the Petitioner.
Shri S.K. Tambe, AGP for Respondent No.1/State.
Shri A.S. Deshmukh, Advocate for Respondent No.2.

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CORAM : NITIN JAMDAR
&
RAVINDRA V. GHUGE, JJ.

DATE :- 18 September 2024

Per Court :-

. Heard the learned Counsel for the parties.

2. The Petitioner has challenged the order passed by the Maharashtra Administrative Tribunal, dated 02 February 2024, allowing Original Application No.98/2020 filed by Respondent No.2. By the impugned order, the Tribunal has set aside the cancellation of appointment of Respondent No.2, by reinstating her and setting aside the appointment of the Petitioner.

3. The Petitioner (Sheetal Manohar More) was Respondent No.2 before the Tribunal, whereas, Respondent No.2 (Bhavna Rahul Patil) in this petition was the Applicant before the Tribunal. The parties are referred to by their nomenclature in this petition.

4. On 04 May 2018, Respondent No.1/ Sub Divisional Officer, Erandol, District Jalgaon, issued the proclamation calling for applications for the posts of Police Patil in Parola Taluka. The post of Police Patil at village Adgaon, Taluka Parola, was reserved for the candidate from Open (Female) category. Respondent No.2 filed an application for the post of Police Patil at village Adgaon. After the selection process was completed, one Seema Patil was appointed as Police Patil and Respondent No.2 was at Serial No.2 in the select list. However, the said Seema Patil resigned on the same day. Thereafter, on 29 August 2018, Respondent No.2 came to be appointed as Police Patil for a period of five years.

5. The Petitioner had filed Original Application No.709/2018 before the Tribunal challenging the order of appointment issued in favour of Respondent No.2. The Tribunal relegated the matter to Respondent No.1 to hold a proper enquiry. Thereafter, on 13 December 2019,

Respondent No.1 cancelled the appointment of Respondent No.2, which order was challenged by Respondent No.2 in Original Application No.98/2020 before the Tribunal, which led to the passing of the impugned order as above. The Tribunal held that the objection raised by the Petitioner that Respondent No.2 is not resident of village Adgaon, is not correct.

6. Entire dispute revolves around a stipulation in the advertisement issued by Respondent No.1 that the candidate for the post of Police Patil should be resident of the concerned village. According to the Petitioner, Respondent No.2 is not resident of village Adgaon. While according to Respondent No.2, no error is committed by the Tribunal in rendering the factual finding that Respondent No.2 is resident of village Adgaon.

7. Though the learned Counsel for the Petitioner has sought to address us on various factual aspects, we have to be mindful of the nature of the jurisdiction that we are called upon to exercise and also the Constitutional scheme whereby, the Tribunal exercises the power of judicial review. This Writ Petition is not an appeal from the order passed by the Tribunal and unless factual findings are perverse, Writ Court will not interfere or substitute the same merely because other

view is possible.

8. The learned Counsel for the Petitioner sought to contend that the document on which the Tribunal has placed reliance to hold that Respondent No.2 was the resident of village Adgaon, was created after the date of advertisement. To a specific query to the learned Counsel for the Petitioner whether, this ground was taken before the Tribunal, he is unable to show us any such contention advanced before the Tribunal or the discussion there upon. The only contention advanced is that this was the ground taken by Respondent No.1 when the appointment of Respondent No.2 was cancelled. Though Respondent No.1 was called upon to consider the aspect of residence of Respondent No.2, Respondent No.1 was not exercising a power to render a judgment from which an appeal would lie to the Tribunal. Therefore, this ground had to be specifically argued before the Tribunal so that the factual enquiry could have been conducted. It was not so taken. The learned Counsel for the Petitioner then submitted that this argument is referred to in the sur-rejoinder filed before the Tribunal. As stated earlier, the same is not being specifically referred in the order and this ground is not even taken in this Writ Petition.

9. We note that before the Tribunal, Respondent

No.2 had submitted as many as 18 documents which included Domicile Certificate, Residence Certificate, Verification Certificate, Aadhar Card, Election Identity Card, Voters List, Marriage Registration Certificate and the documents pertaining to her husband and in-laws. The Tribunal, after having gone through these documents, came to the conclusion that the residence of Respondent No.2 was village Adgaon. The discussion of the Tribunal on evidence runs into seven paragraphs where the evidence has been examined. The Tribunal, on the basis of the evidence before it, reached the factual conclusion. It also needs to be seen that village Adgaon is consisting of cluster of three villages and, therefore, if upon examination of evidence, the Tribunal reached the conclusion that Respondent No.2 is residence of village Adgaon, then, we do not find any perversity in the approach of the Tribunal. Respondent No.2 is duly selected and is otherwise qualified and the only ground that was raised was regarding her residence, which the Tribunal has now conclusively answered.

10. Apart from the above position, the learned Counsel for Respondent No.2 has pointed out that in the final select list, only the names of Seema Amrutrao Patil and Respondent No.2 appeared. Seema Patil had withdrawn her candidature. The Petitioner was not even in the final select

list. This fact is duly noted by the Tribunal. The only answer of the Petitioner is that the Tribunal had earlier entertained the application and, therefore, the Petitioner cannot be non suited on the ground of locus. There is no merit in this contention of the Petitioner. The Tribunal had not concluded on merits in the earlier round of litigation and had only relegated the matter back to Respondent No.1. Therefore, it cannot be said that there was an estoppel operating. If the Petitioner was not even in the select list, the challenge at the behest of the Petitioner is even otherwise an academic one.

11. In these circumstances, there is no merit in this petition. The Writ Petition is, accordingly, rejected.

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(RAVINDRA V. GHUGE, J.)

(NITIN JAMDAR, J.)