



- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12486 OF 2024

Pandurang s/o Uttam Rathod,
Age-34 years, Occupation : Agriculturist,
R/o. Maldari, Tq.Bhokar,
Dist.Nanded

-- PETITIONER

VERSUS

1. The State of Maharashtra,
Through District Collector, Nanded,
Tq. And Dist. Nanded

2. The Sub Divisional Officer,
Bhokar, Tq.Bhokar,
Dist.Nanded

3. Ramesh s/o Mansing Ade,
Age-34 years, Occu-Agriculturist,
R/o. Maldari, Tq.Bhokar,
Dist.Nanded

-- RESPONDENTS

Mr.Vaibhav B.Dhage, Advocate for the Petitioner.
Mr.R.S.Wani, AGP for Respondent Nos. 1 and 2.
Mr.Swapnil Joshi h/f Mr.Ganesh Jadhav, Advocate for Respondent No.3.

(CORAM : MANGESH S. PATIL AND
PRAFULLA S. KHUBALKAR, JJ.)

DATE : NOVEMBER 19, 2024

ORAL JUDGMENT :- (Per Prafulla S. Khubalkar, J.)

1. Rule. Rule made returnable forthwith and heard finally by

the consent of the parties.

2. The petitioner has filed instant petition challenging the order dated 11.11.2024 passed by the Maharashtra Administrative Tribunal in O.A. No.299/2024, by which the original application is allowed directing the appointment of respondent no.3 on the post of “Police Patil” of village Maldari, Tal.Bhokar, Dist.Nanded.

3. The facts succinctly put leading to the filing of the instant Petition are as under. For the purpose of narration of facts, the parties are referred according to their status in the original application before the learned Maharashtra Administrative Tribunal :-

[a] In response to an advertisement dated 01.01.2024 published by the Collector, Nanded, inviting applications for appointment as Police Patil in Maldari, Tal.Bhokar, Dist.Nanded, the original applicant (Ramesh s/o Mansing Ade) and the original Respondent No.3 (Pandurang s/o Uttam Rathod) submitted their applications.

[b] After scrutiny of the documents, the original applicant as well as the original respondent No.3 were held eligible and they were selected for written examination.

[c] After written examinations, the original Respondent No.3 (Pandurang Rathod) raised an objection alleging that the original applicant is not resident of Maldari and he was residing at village Durgam Gandhari, Taluka and Dist. Nijamabad in the State of Telangana.

[d] The original applicant had also raised an objection against the candidature of original respondent No.3 by objections dated 07.02.2024, 12.03.2024 and 18.03.2024 alleging that he had not submitted his resignation from the post of Gram Panchayat Member during appointment process and therefore he was not eligible for the post of Police Patil.

[e] The Sub Divisional Officer, Bhokar passed an order dated 07.03.2024 and upheld the objections raised by the original respondent No.3 (Pandurang Rathod) and cancelled the candidature of original applicant (Ramesh Ade).

[f] By another order dated 14.03.2024, the Sub Divisional Officer appointed the original Respondent No.3 as Police Patil of village Maldari.

[g] The original applicant raised challenge to both these orders vide Original Application No.299/2024 before the Maharashtra

Administrative Tribunal.

[h] Respondent Nos. 1 and 2 filed reply dated 15.04.2024 and Respondent No.3 filed its reply dated 12.07.2024.

[i] On the basis of the record available before the Tribunal, the Tribunal passed final order dated 11.11.2024, by which the Original Application is allowed and the impugned orders dated 07.03.2024 and 14.03.2024 came to be quashed and set aside. By this order, the learned Maharashtra Administrative Tribunal directed respondent Nos. 1 and 2 to issue appointment order in favour of the original applicant (Ramesh Ade) as Police Patil of village Maldari.

4. Assailing this order, the Petitioner (original respondent No.3) has filed the instant Petition. The main thrust of the petitioner's argument is that the Tribunal failed to note that one person cannot be resident of two places and therefore unless the name of respondent no.3 is withdrawn from the constituency of Telangana, he cannot be considered to be resident of village Maldari. The petitioner also contended that the Tribunal has erred in relying upon the report of the Tahsildar and has failed to note the purport of terms and conditions of the advertisement.

5. We have heard the both the parties and perused the documents placed alongwith the Writ Petition.

6. Before we proceed further, a reference to a few relevant documents is necessary. On close scrutiny of the documents on record, it is clear that the advertisement dated 01.01.2024 inviting the applications for the post of Police Patil contains specific terms and conditions regarding eligibility of the candidates. Condition no.3 of the advertisement mentioned that the candidate was required to be resident of the concerned village, to be certified by the Tahsildar or the Talathi. The application form as submitted by respondent no.3 (Ramesh Ade) shows that as regards his residence of village Maldari, he had replied in affirmative. The report of Tahsildar dated 12.02.2024, which is based on the report of the Circle Officer, shows that after considering the relevant aspects, the Tahasildar certified that respondent no.3 was resident of village Maldari, Tal. Bhokar. So also the certificate of domicile dated 17.01.2024 shows domicile of respondent No.3 to be of Maldari, Taluka Bhokar, District Nanded. It is pertinent to note, all these documents were filed before the

Maharashtra Administrative Tribunal and there is no dispute about these documents.

7. The learned Advocate for the petitioner has strenuously argued about ineligibility of Respondent No.3 on the ground that respondent No.3 is not resident of village Maldari and that he is resident of Telangana State. In support of his submissions, he has relied on condition No.3 of the advertisement and has alleged that while submitting the application form, the Respondent No.3 had made an incorrect statement about his residence being of village Maldari. The learned Advocate further argued that the Maharashtra Administrative Tribunal failed to consider the crucial issue that on the date of submitting the application, Respondent No.3 was not having the certificate of domicile and therefore he ought to have been declared ineligible. In support of this statement, the petitioner has relied upon condition No.2 against the caption 'procedure of selection and terms and conditions' as mentioned in the advertisement dated 01.01.2024 which provided that in the event of any discrepancy in the application form and the documents submitted, the candidate will be disqualified at any stage.

8 As regards the challenge to the eligibility of respondent no.3 on account of his residence, it has to be seen that the advertisement dated 01.01.2024 required that the candidate should be resident of the concerned village. There is no specific condition in the advertisement, in the nature of a pre-condition that on the date of submission of the application, the candidate must possess with him the certificate of domicile. In this case, respondent no.3 affirmatively stated in his application that he was a resident of village Maldari. At the time of scrutiny of documents, in support of his eligibility he relied upon the report of the Tahsildar, Bhokar, which is based on the report of the Circle Officer and the document of 7/12 extract in the name of respondent no.3. It is pertinent to note that the specific condition in the advertisement required the certification by Tahsildar or by the Talathi, to be sufficient for concluding about place of residence of a candidate. The petitioner's general contentions does not nullify the certificate of the Tahsildar. The contentions raised by the petitioner are based mainly on the allegation that the name of respondent no.3 appeared in the ration card of his sister, who resided in Nijamabad, in State of Telangana. Pertinently, the report of the Circle Officer dated

07.02.2024, which is considered by the Tahasildar, mentioned that although the name of respondent no.3 appeared in the ration card alongwith his sister, on the basis of the 7/12 extract and the other circumstances it was inferred that respondent no.3 is permanent resident of village Maldari. It is thus clear that respondent no.3 had not made any false statement in the application. It is also important to note that there was no requirement of uploading any documents alongwith the online application and further at the time of scrutiny of documents, respondent no.3 had produced the certificate of domicile which established his residence.

9. In the instant case, on the date of verification of the documents, respondent no.3 had produced the domicile certificate dated 17.01.2024, which was issued by the competent authority certifying about his residence. As such, the contentions of the petitioner assailing the eligibility of respondent no.3 only on the ground of his residence being not of village Maldari and absence of certificate on the date of application, does not find any merit.

10. We have perused the impugned order passed by the

Maharashtra Administrative Tribunal and it is clear that the Tribunal has given thoughtful consideration to the documents placed before it and after considering the legal position has passed the well reasoned order. The petitioner has failed to demonstrate any illegality or perversity in the impugned order warranting interference.

11. The Petitioner's contentions regarding ineligibility of the respondent no.3 are based on factual aspects. The Petitioner has failed to demonstrate any kind of perversity in the reasoning of the learned Maharashtra Administrative Tribunal. We are of the opinion that in absence of any perversity or gross illegality, interference with the impugned order passed by the Tribunal, is unwarranted. The petition therefore deserves to be dismissed.

12. The instant petition is therefore dismissed with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

(MANGESH S. PATIL, J.)