
(1999) 09 BOM CK 0038
In the Bombay High Court
Case No : Writ Petition No. 415 of 1999

Arun Patil

APPELLANT

Vs

The State of Maharashtra and Others

RESPONDENT

Date of Decision : 07-09-1999

Acts Referred:

Maharashtra Village Police Patils (Recruitment, Pay, Allowances and Other Conditions of Service) Order, 1968 — Rule 3(c), 5(2)

Citation : (2000) 1 BomCR 419 : (1999) 82 FLR 573 : (1999) 3 MhLj 594

Hon'ble Judges : D.D. Sinha, J;B.N. Srikrishna, J

Bench : Division Bench

Advocate : P.B. Patil, for the Appellant; B.A. Deshpande, Asstt. Govt. Pleader, N.S. Bade, for the Respondent

Judgement

B.N. Srikrishna, J.—Rule returnable forthwith. Respondent No. 1 and 2 waive service through Shri Deshpande, Assistant Government Pleader, respondent No. 3 waives service through Shri Bade, Advocate. By consent rule called out and heard.

2. This writ petition is directed against an order of the Maharashtra Administrative Tribunal (MAT), dated 15-1-99, made in Original Application No. 99/98 by which the selection and appointment of the petitioner as Police Patil in village Motala was set aside.

3. The petitioner came to be appointed as Police Patil of village Motala on 29-12-97 after following the required procedure sometime in March 1998. The third respondent challenged the appointment of the petitioner before the Maharashtra Administrative Tribunal by Original Application No. 99/98. The Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1968 provides the criteria for eligibility for appointment as Police Patil in Rule 3. Rule 3(c) provides that no person shall be eligible for being appointed as a Police Patil who is not a resident of the village or one of the villages in case of group of villages for which the appointment is to be

made. Rule 5(2) provides that in making the selection the competent authority shall take into consideration whether the applicant is known to the villagers and is acquainted with all the residents of the village and is possessed with landed property in the village. The petitioner has specifically filed a submission before the Maharashtra Administrative Tribunal stating in para 3 that the petitioner has his own house in Ward No. 2 at Motala and is also a permanent resident of the said village. He contended that he was residing at Motala only. In the impugned order of the Maharashtra Administrative Tribunal, there is only a reference to Rule 5(2), but there is no reference to eligibility criteria fixed in Rule 3. The Maharashtra Administrative Tribunal seems to have assumed that the preference to be given in process of selection under Rule 5 was itself the criteria for eligibility. The only reason why the petitioner's selection as Police Patil is set aside by the Maharashtra Administrative Tribunal is that he did not possess landed property in Motala. This reasoning is erroneous on two grounds. In the first place, factually it is incorrect since the petitioner does possess residential house in Motala. Secondly, possession of landed property is not a criteria for eligibility and the petitioner's appointment should not have been set aside on the said ground. For both reasons, we are satisfied that the impugned order of the Maharashtra Administrative Tribunal is erroneous and needs to be interfered with. Hence the following order :

4. The impugned order of the Maharashtra Administrative Tribunal dated 15-1-1999 made in Original Application No. 99/98 is hereby quashed and set aside. The petitioner's appointment as Police Patil shall be continued in accordance with the rules. Rule accordingly made absolute. No order as to costs.

5. Rule made absolute.