

PETITIONER:
MADHUKAR BAKRU PINGAL

Vs.

RESPONDENT:
SHRI RAJENDRA D. GAIKWAD & ORS.

DATE OF JUDGMENT 13/09/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
JEEVAN REDDY, B.P. (J)
HANSARIA B.L. (J)

CITATION:
1995 SCC (6) 42 JT 1995 (9) 598
1995 SCALE (5) 430

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

On July 27, 1992 applications were invited to fill up the post of Police Patil in the village Ambe, Dindori Taluk of Nasik District. Five persons had applied for the recruitment. The appellant was selected and was appointed as the Police Patil. On challenge being made by the respondent No.1 before the Tribunal, the Tribunal set aside the appointment order of the appellant. The Tribunal observed that 50% of marks were reserved for written examination and 50% marks were for viva-voce and held that the prescription of 50% of marks for viva-voce is arbitrary as per the law laid down by this Court. Therefore, the Tribunal set aside the appointment of the appellant and directed to appoint the respondent. Thus, this appeal by special leave.

Mr. Khanwilkar, learned counsel for the appellant, contended that even assuming that prescription of 50% of marks for viva-voce is invalid the appropriate course would have been that a direction was given to the respondent Nos. 2 and 3 to prescribe lesser marks for viva-voce and higher marks for written examination and to direct conducting examinations of the candidates who had applied for afresh and considering the cases of the candidates according to law. We find force in the contention. The Tribunal, instead, has given direction to appoint Respondent No.1 who was not selected by the appointing authority. Under the interim direction, the appellant is continuing in service and would continue till a candidate is duly selected and appointed.

In these circumstances, we set aside the direction issued by the Tribunal to appoint the contesting respondent No.1 as Police Patil. Instead the official respondents are directed to conduct written examination and viva-voce test allocating 85% and 15% of marks respectively and consider the cases of all those candidates who appeared at the initial examination and make selection according to rules.

The appeal is accordingly allowed. No costs.

JUDIS