

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION No.1236 of 2019

J. V. Sarde

)..... **Applicant**

Versus

State of Maharashtra & Ors.

)...**Respondents**

Shri K. B. Bhise, Counsel for the Applicant
Ms S. P. Manchekar, Chief Presenting Officer for the Respondents

CORAM : SHRI A. P. KURHEKAR , MEMBER (J)

DATE : 31.12.2019.

ORDER

(The matter is from Aurangabad Bench and placed before this Tribunal in vacation.)

1. Heard Shri K. B. Bhise, learned Counsel for the Applicant and Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.
2. The Applicant has challenged the impugned order dated 30.11.2018 and 17.12.2019 passed by the Respondent No.1 -Sub Divisional Officer, Osmanabad whereby the Applicant was directed to get license of his fair price shop cancelled so that he will be considered for the appointment to the post of Police Patil of village Sardewadi, Tq. Tuljapur, Dist. Osmanabad.
3. Perusal of O.A. reveals that Applicant had applied for the post of Police Patil of village Sardewadi, Tal. Tuljapur, Dist. Osmanabad and secured highest marks. However, it was revealed that he is running fair price shop in the village. Respondent No.1, therefore, directed him to get license of fair price shop cancelled so that appropriate orders for appointment of Police Patil would be issued.
4. Thus, what transpires that Respondent No.1 seems to be of the opinion that running of fair price shop renders the Applicant ineligible for appointment to the post of Police Patil.

Manchekar

5. However, as pointed out by the learned Counsel for the Applicant, the Government by letter dated 08.08.2014 made it clear that Police Patil can run business in the same village (Page No.37 of P.B.)

6. Furthermore, Rule 8 of Maharashtra Village Police Patil (Recruitment, Pay and Allowances & Other Conditions of Services) Order, 1968 reads as under:-

"8. Engagement in business or trade: - Notwithstanding anything contained in this Order, a Police Patil may cultivate land or engage in local business or trade in the village, in such manner as is not detrimental to the performance of his duties as Police Patil, but he shall not undertake any full-time occupation elsewhere."

7. Thus, engagement in local business or trade is not barred.

8. In view of above, prima-facie, the impugned communication directing the Applicant to get his fair price shop cancelled is incorrect. The Applicant is, therefore, entitled to interim relief so that his interest is protected till further orders.

9. By way of interim relief, it is directed that Respondent No.1 should not appoint anybody else on the post of Police Patil of village Sardewadi, Tal. Tuljapur, Dist. Osmanabad without prior permission of the Tribunal.

10. Issue notice before admission returnable on 27.01.2020.

11. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

12. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

13. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

14. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

15. In case notice is not collected within seven days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

16. S.O. to 27.01.2020.

17. Hamdast granted.

Sd/-

(A.P. KURHEKAR)
MEMBER (J)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 31 .12.2019</p> <p>O. A. Nos.1237, 1238, 1239, 1240 & 1241 of 2019</p> <p>C. G. Patil & Ors.Applicants</p> <p>Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <ol style="list-style-type: none"> 1. Heard Shri K. B. Bhise, learned Counsel for the Applicants and Ms S.P. Manchekar, learned Chief Presenting Officer for the Respondents. 2. Issue notice before admission returnable on 24.01.2020. 3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued. 4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.As. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing. 5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open. 6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice. 7. In case notice is not collected within seven days or service report on affidavit is not filed 3 days before returnable date, Original Applications shall stand dismissed without reference to Tribunal and papers be consigned to record. 8. S.O. to 24.01.2020. 9. Issue of consideration of interim relief is kept open. <p style="text-align: right;">Sd/-</p> <p style="text-align: right;">(A.P. Kurhekar) Member(J)</p>