

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 651 OF 2022

DISTRICT : JALNA

Santosh Subhash Suparkar,)
Age : 30 years, Occu. : Nil,)
R/o : Ganpati Gali, Old Jalna,)
Taluka and District Jalna.) **APPLICANT**

V E R S U S

1. **The State of Maharashtra,**)
Through its Additional Chief Secretary,)
Home Department, C.S. Office, Main)
Building, Mantralaya, 6th Floor,)
Hutatma Rajguru Chowk, Nariman Point,)
Mumbai-400032 Maharashtra State.)
 2. **The Superintendent of Police,**)
Jalna, Near Collector Office, Ambad Road,)
Jalna, District Jalna.)
 3. **The Divisional Commissioner,**)
Through its Chairman,)
Co-coordinator Committee, Office of)
Divisional Commissioner, Delhi Gate,)
Aurangabad.)
- ... RESPONDENTS**

APPEARANCE : Shri V.B. Wagh, Counsel for the Applicant.

: Shri B.S. Deokar, Presenting Officer for
respondent authorities.

CORAM : **Hon'ble Justice Shri P.R. Bora, Vice Chairman
and
Hon'ble Shri Vinay Kargaonkar, Member (A)**

DATE : **26.10.2023.**

PER : **Hon'ble Justice Shri P.R. Bora, Vice Chairman**

ORAL - ORDER

1. Heard Shri V.B. Wagh, learned counsel for the applicant and Shri B.S. Deokar, learned Presenting Officer for respondent authorities.

2. The applicant has preferred the present Original Application aggrieved by the order dated 28.06.2022 issued by the respondent No. 2, whereby the applicant was declared ineligible to be appointed on the post of Driver Police Constable.

3. The applicant had applied for the post of Driver Police Constable in pursuance of the advertisement dated 08.12.2019 issued by the office of respondent No. 2. The applicant claims to be belonging to NT-B category. On 07.01.2021, he filled up the online application form for the said post. On 22.09.2021, the written test was conducted and the applicant secured 84 marks out of 100. On 11.11.2021, physical test was conducted and the applicant secured 44 marks out of 50 marks. Merit list published in January, 2022 for the said post and the applicant stood at Sr. No. 1 from NT-B category having secured 128 marks out of 150 marks. On 24.02.2022, the applicant filled in attestation form. On 26.02.2022, report came to be submitted disclosing that the offence was registered against the applicant at

Police Station, Talwada, District Beed for the offences punishable under Section 498-A, 323 r/w 34 of I.P.C. In the application form, the applicant did not disclose the aforesaid fact on the contrary in against the said column, recorded the answer in negating i.e. 'No'. The enquiry therefore, was conducted and the committee ultimately took a decision holding the applicant ineligible for appointment on the post of Driver Police Constable. Aggrieved by the said order, the applicant has approached this Tribunal by filing the present Original Application.

4. Shri V.B. Wagh, learned counsel appearing for the applicant submitted that the applicant was acquitted of the offences registered against him, as well as, other family members much prior to initiation of the recruitment process for the post for which the applicant applied. Learned counsel submitted that on the date of filling online application form, no case was pending against the applicant. Learned counsel submitted that believing that when he was acquitted of the offences and presently at the time of filling form since no offence was pending against him, he submitted information in negative saying 'No'. Learned counsel submitted that because of not having proper knowledge as about the information to be filled in, though the applicant recorded answer as 'No', his intention was not to hide

any information from the authorities. Learned counsel submitted that the offence was registered mainly against his brother by his wife and all the family members including the present applicant were made accused in the said matter. Learned counsel pointed out that in the trial, no evidence came on record against the applicant and hence he was acquitted by the competent court. Learned counsel submitted that the committee, which considered the matter of applicant did not apply the criteria as laid down in the case of **Avtar Singh Vs. Union of India and others** and ignoring the guidelines given by the Hon'ble Supreme Court in the said matter, only on the count that the Police is disciplinary force and no mistakes are liable to be condoned by the persons desiring to join the Police Force the applicant has been held ineligible. Learned counsel submitted that having regard to the performance of the applicant, the committee must have taken a lenient view and also the intention of the applicant not to hide information from the authorities.

5. The respondents have submitted affidavit in reply contenting therein that when the applicant was fully aware that he had faced criminal prosecution, must have disclosed the said fact with the further information that he has been acquitted. It is further contended that the committee appointed for the

purpose has thoroughly considered the case of the applicant and after due evaluation, has rejected the request of the applicant holding him ineligible for to be appointed in the Police Force. The respondents have therefore, prayed for dismissal of the present Original Application.

6. Shri B.S. Deokar, learned Presenting Officer reiterated the contentions raised in the affidavit in reply and submitted that insofar as Police Force is concerned, the candidate must be of impeccable character and integrity and must be a person of utmost rectitude and the person who had initial stage, tried to provide misleading information cannot complain that he has been incorrectly declared as ineligible. He therefore, prayed for dismissal of the Original Application.

7. We have considered the submissions made on behalf of the applicant, as well as, respondents. It is not in dispute that the applicant provided incorrect information in the attestation form. The appellant was expected to provide correct information stating that he was required to face criminal prosecution for the offences punishable under section 498-A, 323 r/w 34 of I.P.C., but was acquitted even prior to making an application for the subject post. The Hon'ble Supreme Court in the case of **Avtar**

Singh Vs. Union of India and others, (2016) 8 Supreme Court Cases 471 has laid down the certain guidelines taking into account the various similar contingencies as are arisen in the present matter. In the aforesaid judgment in para No. 38, the Hon'ble Supreme Court has laid down the certain guidelines. We deem it appropriate to reproduce the same, which reads thus :-

“ 38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of aforesaid discussion, we summarise our conclusion thus:

38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

38.2. While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

38.3. The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

38.4. In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted :

38.4.1. In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.

38.4.2. Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

38.4.3. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

38.5. *In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.*

38.6. *In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion may appoint the candidate subject to decision of such case.*

38.7. *In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.*

38.8. *If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.*

38.9. *In case the employee is confirmed in service, holding Departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.*

38.10. *For determining suppression or false information attestation/ verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.*

38.11. *Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him.”*

8. While declaring the applicant ineligible, the committee consisting of Divisional Commissioner, Aurangabad, Special Inspector General of Police, Aurangabad, Police Superintendent, Jalna, District Government Pleader at District Court, Aurangabad and the in-charge Dy. Superintendent of Police (Head Quarter), Jalna, considered the case of the applicant and by recording the reasons, has held the applicant ineligible for to

be appointed in the Police Force. The reasoning, which has been given by the said committee requires to be reproduced as it is, which reads thus :-

“उमेदवार श्री. सचिन सुभाष सुपारकर रा. गणपती गल्ली जुना जालना ता.जि. जालना यांची चालक पोलीस शिपाई भरती-2019 मध्ये चालक पोलीस शिपाई या पदावर निवड करण्यात आल्यानंतर उमेदवाराने चारित्र्य पडताळणी करीता स्वहस्ताक्षरात साक्षांकित फॉर्म भरून सादर केला. असे करताना त्यांचे विरुद्ध पोलीस ठाणे तलवडा जिल्हा बीड येथे गु.र.नं.07/2016 कलम 498 (अ) 323, 34 भादवि प्रमाणेगुन्हा दाखल असतांना सदर गुन्हा बाबत साक्षांकण नमुना फॉर्म मध्ये माहिती दर्शविणे अनिवार्य असूनही त्यांनी सदर बाबतची माहिती साक्षांकण फॉर्म मधील 15 (1) (अ) मुद्द्यांची माहिती "नाही" म्हणून पुरविली आहे. म्हणजेच उमेदवाराने खोटी माहिती देऊन शासनाची दिशाभूल केलेली आहे.

महाराष्ट्र शासन, गृह विभाग, शासन निर्णय क्र. चारित्र्य -2117/प्र.क्र. 483/2017/16-अ दिनांक 28/08/2017 शासकिय सेवेमध्ये नियुक्ती देतांना नियुक्तीपूर्वी उमेदवाराने भरून द्यावयाचा साक्षांकण नमुना परिशिष्ट-अ मधील 1. इशारा :- या साक्षांकण नमुन्यामध्ये खोटी माहिती दिल्यास किंवा कोणतीही वस्तुस्थितीनिदर्शक माहिती दडवून ठेवल्यास त्याला अपात्र करण्यात येईल आणि कोणत्याही राज्य शासकिय सेवेसाठी कायम अपात्र ठरेल. सदर शासन निर्णयातील परिच्छेद 34 मध्ये उमेदवाराने सादर केलेली माहिती असत्य आढळून आल्यास तात्पुरते नियुक्तीपत्र रद्दबादल करून भारतीय दंडसंहितेनुसार फौजदारी कारवाई तसेच शासन सेवेतून कायमस्वरूपी अपात्र ठरविण्यात येईल अशी तरतूद आहे. त्यानुसार समितीचे सदस्य सचिव यांनी संबंधितास अपात्र ठरविण्याची शिफारस त्यांचे प्रपत्र क्रमांक अ- 1 मध्ये केलेली आहे.

या अनुषंगाने शासकीय अभियोक्ता श्री अविनाश देशपांडे यांनी त्यांचे कायदेशीर मत मांडतांना असे सांगितले की, मा. सर्वोच्च न्यायालयाचे देवेंद्र कुमार विरुद्ध उत्तरांचल शासन व इतर या प्रकरणातील निर्णय क्रमांक CA- 1155/2006 DT 29/07/2013 नुसार उमेदवाराने गुन्हा बाबतची माहिती दडवून ठेवल्यास अशा उमेदवाराने नैतिक अधःपतन केले असे समण्यात येवून त्यांना अपात्र ठरविण्यात यावे. तसेच मा. सर्वोच्च न्यायालयात दाखल अवतार सिंग विरुद्ध भारत सरकार विशेष अनुमती याचिका क्रमांक 20525/2011 या प्रकरणामध्ये मा. सर्वोच्च न्यायालयाने दिनांक 21/07/2016 रोजी दिलेल्या निर्णयानुसार उमेदवाराने केवळ माहिती दडवून ठेवली म्हणून त्याचे नैतिक अधःपतन झाले असे

न समजता उमेदवारावर दाखल गुन्ह्याचे स्वरूप, झालेला निर्णय व त्याचे विश्लेषण करून समितीने निर्णय घेणे अपेक्षित असल्याचे सांगितले.

वर नमुद केल्याप्रमाणे उच्चस्तरीय समितीतील सदस्यांनी उमेदवाराविरुद्ध दाखल गुन्हा, त्यातील न्यायनिर्णय, उमेदवाराने भ्रूण दाखल केलेल्या अभिलेखातील माहिती याची छाननी करण्याचा निर्णय घेतला.

उमेदवार यांचे विरुद्ध दाखल करण्यात आलेला गुन्हा हा त्यांच्या भावाच्या पत्नीने कलम 498 (अ) 323, 34 भादंवि नुसार दाखल केला असून त्यामध्ये उमेदवाराशिवाय त्यांच्या कुटुंबातील अन्य (4) सदस्य अभियुक्त आहेत, सर्वसाधारणपणे एखादया विवाहितेकडून आपल्या सासरच्या लोकांविरुद्ध भादंवि कलम 498 (अ), 323,34 अन्वये गुन्हा दाखल करतांना सासरच्या सर्वच व्यक्तींविरुद्ध गुन्हा दाखल करण्याची मानसिकता असते त्यामुळे प्रकरणातील उमेदवार हे तिचे दार असल्यामुळे त्यांचे विरुद्ध गुन्हा नोंद केलेला असू शकतो. या शक्यतेचा समितीने विचार केला. उमेदवार हे कुटुंबातील सज्जन पुरुष सदस्य असल्यामुळे ते या गुन्ह्यामधील मुक साक्षीदार किंवा सहभागी या पैकी काहीही असू शकतात. ही बाब फिर्यादीवरून पुरेशी स्पष्ट होत नाही.

सदर गुन्ह्यामध्ये मा. न्यायालयाने उमेदवार श्री संतोष सुभाष सुपारकर यांना दोषमुक्त केले आहे. मा. न्यायालयाच्या या निर्णयाचे समिती सदस्यांनी अवलोकन केले असता सदरचा निर्णय हा फिर्यादी यांच्या तडजोडीनुसार झाला असल्याचे दिसून येते. फिर्यादी यांनी यापुढे संसार करावयाचे अभिलाषे पोटी न्यायालयात खटला चालविण्याची इच्छा नसल्याचे प्रतिज्ञा पत्र सादर केल्यानुसार मा. न्यायालयाने चार आरोपींना निर्दोष मुक्त व उमेदवार श्री संतोष सुभाष सुपारकर यांना दोषमुक्त केले आहे.

तसेच मा. न्यायालयाच्या न्यायनिर्णयातील परिच्छेद क्रमांक (9) प्रमाणे फिर्यादी ह्या त्यांचे सासरी न्यायलयीन निर्णयापूर्वी सहा महिण्यापासून नांदत आहेत त्यामुळे त्यांनी भांडण राहिलेले नाही असे न्यायालयासमोर शपथेवर सांगितले असल्याची शक्यता आहे. सदरचे प्रकरण सन 2016 चे असून सन 2019 मध्ये निकाली निघाले आहे. दरम्यान च्या काळात त्या सन 2016 ते 2018 सासरी नांदत नव्हत्या त्यामुळे त्यांना दोन वर्षे त्रास सहन करावा लागलेला असण्याची शक्यता आहे.

वरील नमुद परिस्थितीचा विचार करता उमेदवार यांनी वैयक्तीक स्वार्थापोटी गुन्हा बाबतची माहिती दडवून ठेवली असल्याचे तसेच मा. न्यायालयाचा निर्णय हा फिर्यादी यांनी घेतलेल्या भुमीकेवर अवलंबून असल्याचे दिसून येते.

मा. सर्वोच्च न्यायालयाच्या सिव्हिल अपील नं. 10613/2014 मध्ये मध्यप्रदेश शासन विरुद्ध परवेज खान यांचे न्यायनिर्णय परिच्छेद क्र.12 मुखर Commissioner of Police Vs Mehar Singh निवाड्यात Para No. 35 ज्यात The Police Force is a disciplined force. It shoulders the great | responsibility of maintaining Law & Order & Public Order in the Society. People repose great faith and confidence in it. It must be worthy of that confidence. A candidate wishing to join the Police Force must be a person of utmost rectitude. He must have impeccable character & integrity. A person having criminal antecedents will not fit in this category. Even if the criminal case, that acquittal or discharge order will have to be examined to see whether he has been completely exonerated in the case because even possibility of his taking to the life of crimes poses a threat to the discipline of the police force. तसेच मा. सर्वोच्च न्यायालय, सिव्हिल अपील नं. 10613/2014 नुसार Para. 13. From the above observations of this court. It is clear that a Candidate to be recruited to the police service must be worthy of confidence & must be a person of utmost rectitude and must have impeccable character and integrity. Person having criminal antecedents will not fit in this category even if he is acquitted or discharged. It cannot be presumed that he was completely exonerated. Person who are likely to erode the credibility of the Police ought not to enter the police force.

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शासन सेवेत नेमणुक करताना उमेदवाराचे चारित्र्य व पूर्वचारीत्र्य करण्याबाबत शासप निर्णय क्रमांक सामान्य प्रशासन विभाग चारीत्र्य/ 2117/प्र.क्र.483/2017/16/ दिनांक 28/08/2017 अन्वये उमेदवारांनी सादर केलेली माहिती असत्य असल्याच आढळून आल्यास किंवा माहिती दडवून ठेवल्यास त्यांना अपात्र करण्यात येईल अशी तरतुद असल्याने व उमेदवार हे पोलीस दलाची सेवा ही संवेदनशील व सचोटी चो असून त्यामधील सक्रीय उमेदवार हे संशयातील चारीत्र्याचे असावे असा मानदंड आहे. उमेदवार श्री. संतोष सुभाष सुपारकर हे सदर पात्रतेत बसत नसल्याने सामितीने सर्वानुमते

पोलीस भरती-2019 मधील चालक पोलीस शिपाई या पदासाठी अपात्र ठरविण्याचा निर्णय घेतलेला आहे.”

9. It was the contention of the learned P.O. that the committee has thoroughly considered the case of the applicant from all angles and thereafter the decision has been taken by the committee. We have also gone through the reasons recorded by the said committee. It has to be stated that the reasons as are assigned by the committee are more in respect of accused no. 1 in the said matter i.e. elder brother of the present applicant. The aforesaid criminal case was filed by the wife of elder brother of the present applicant and she had made all family members of her husband as accused in the said matter. The committee though has observed that it was not a Hon'ble acquittal and there was some compromise arrived at between the parties, the observations as are made are more applicable to the brother of the applicant, whose wife had logged the aforesaid complaint. In the entire said matter, nothing is revealed against the applicant having played any active role or being responsible for the allegations made in the said matter.

10. In the judgment delivered by the competent Court, it has been specifically observed that nothing was revealed against the accused persons and insofar as present applicant is

concerned, a specific finding is recorded that there was absolutely no evidence against him.

11. We have carefully considered the submissions made on behalf of the applicant, as well as, respondents. We have also gone through the documents produced on record. It is not in dispute that the applicant filled in incorrect and false information against the relevant column stating therein that he never faced any criminal prosecution and that he was never arrested. However, it is subsequently revealed that he was an accused in Criminal Case No. 42/2017 for the offences punishable under Section 498-A, 323 r/w 34 of I.P.C and after receipt of such information, the respondents have declared the applicant ineligible for his appointment on the post of Driver Police Constable.

12. The applicant has placed on record a copy of judgment delivered in Regular Criminal Case No. 42/2017, wherein he was one of the accused. The decision was rendered on 09.09.2019, whereby including the applicant all the accused have been acquitted by the learned JMFC, Georai. In the said matter, charge sheet was submitted on 20.01.2017. The applicant applied for the post of Driver Police Constable in

pursuance of the advertisement issued on 08.12.2019. There is no dispute that the applicant submitted application online on 07.01.2021. The applicant successfully went through the written examination and the physical test. On the basis of marks received by him, his name was included in the merit list at Sr. No. 1 in NT-B category having secured 128 marks out of 150 marks. The merit list was published in the month of January, 2022.

13 As a procedural requirement, the applicant was called upon to furnish the attestation form, wherein the applicant submitted information that he was never prosecuted in any offence; however, subsequently it came to be noticed that he was prosecuted in Regular Criminal Case No. 42/2017 for the offences punishable under Section 498-A, 323 r/w 34 of I.P.C. The question arises why the applicant did not provide the correct information, when in the concerned criminal case he was honorably acquitted. Though the applicant has sought to contend that he did not submit any false information, the document on record clearly reveals that against the question 'have you ever been prosecuted', the applicant had tick marked an option 'No', meaning thereby that he was never prosecuted.

14. Learned counsel for the applicant submitted that the applicant does not have any criminal antecedent and is having clean character. Learned counsel pointed out that in the Criminal Case No. 42/2017 he was falsely implicated. Learned counsel taking us through the judgment in the said criminal case submitted that the said criminal case is filed by the wife of brother of the present applicant and the applicant was unnecessarily and falsely implicated as an accused in the said case. Our attention is invited by the learned counsel to the findings recorded by the learned JMFC, Georai that the accused No. 5 i.e. the present applicant is acquitted as no evidence has come against him. Learned counsel further submitted that the applicant was bona-fide believing that he was not required to provide the information of an offence or criminal case from which he was clearly acquitted and that is the reason that he answered the concerned question in negative. Learned counsel submitted that the applicant is young person and has been selected on his own merit as Driver Police Constable and in the circumstances, it would be unfair and unjust to declare him ineligible for his selection only on the ground that he did not provide the correct information in the attestation form.

15. As against it, as has been argued on behalf of respondents, the applicant deliberately suppressed the said information and has therefore, rightly declared ineligible for his appointment in disciplined force. It has also been argued that in the Police Force the persons to be recruited must be of impeccable integrity.

16. After having considered the facts, which have come on record though it is a fact that while filling in the attestation form, the applicant has recorded the answer as 'No' to the question 'have you ever been prosecuted', when in fact he was cleanly acquitted, it does not appear to us that it can be held as deliberate attempt on part of the applicant to suppress the material information. In fact, there was no reason for the applicant to record the answer in negative, when he had earned clear acquittal in the concerned criminal case, which was filed against him much prior to his making an application for the post of Driver Police Constable and when from the said case he was already honorably acquitted. Had there been no clean acquittal and had the prosecution been for the offence involving moral turpitude, it could have been said that the information is deliberately suppressed. In the present case, no such inference can be drawn.

17. Learned counsel for the applicant has relied upon the judgment of the Hon'ble Apex Court in the case of **Avtar Singh Vs. Union of India and others** (cited supra). The Hon'ble Apex Court after having considered its various past decisions on the issue of furnishing false information by a Government employee in regard to the criminal prosecution against him and has summarized the conclusions in para No. 38 of the said judgment. We have already reproduced the said conclusions hereinbefore. The Hon'ble Apex Court has held in the said matter that "Suppression of 'material' information presupposes that what is suppressed that 'matters' not every technical or trivial matter. The employer has to act on due consideration of rules/instructions if any in exercise of powers in order to cancel candidature or for terminating the services of employee. Though a person who has suppressed the material information cannot claim unfettered right for appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of power has to be in reasonable manner with objectivity having due regard to facts of cases. What yardstick is to be applied has to depend upon the nature of post."

18. In the aforesaid judgment the reference is given of one earlier judgment delivered by the Hon'ble Apex Court in the case

of **Ram Kumar v. State of Utttar Pradesh & Ors. (2011) 14 SCC 709**. In this matter, the Hon'ble Apex Court considered a case wherein in a pending criminal case under sections 324, 323, 504 of IPC, subsequently acquittal was recorded. No overt act was attributed by sole witness to incumbent. In the circumstances, denying back wages to incumbent, the Hon'ble Apex Court directed for giving him appointment.

19. Another case, which is referred to is **Commissioner of Police & Ors. v. Sandeep Kumar (2011) 4 SCC 644**. In the said matter, offence suppressed was committed under section 325 read with 34 of IPC at the time when incumbent was 20 years of age. The Hon'ble Apex Court held that young people are to be dealt with leniency and they should not be deprived of appointment as suppression did not relate to involvement in a serious case.

20. In the instant matter, the applicant is also quite young person. As we noted hereinabove, it is very difficult to say that the applicant deliberately suppressed the fact of criminal prosecution faced by him in the past. As we have noted there was no reason for the applicant to suppress the said fact as he had received the clear acquittal in the said prosecution and the

said prosecution was of the period much prior to his making application for the post of Driver Police Constable and his subsequent selection. We reiterate that from the facts which have come on record, nothing can be attributed on part of the applicant, which would amount to deliberate suppression of any material fact. It appears to us that the committee, which took a decision and declared the applicant to be ineligible to be recruited in the Police Force, has failed in appreciating import of judgment and order passed in Regular Criminal Case No. 42/2017. The committee has failed in appreciating that insofar as present applicant is concerned who was accused No. 5 in the said criminal case, has been given a complete clean acquittal and is kept on better pedestal than the other accused. Reading of the judgment in the criminal case leaves no doubt that the applicant was unnecessarily and falsely implicated in the said crime and that was reason that the competent criminal court has given clean acquittal to him. The case of the applicant must have been dealt with by the concerned committee and the appointing authority in a more reasonable manner with objectivity having due regard to the facts of his case.

21. After having considered the entire facts and circumstances involved in the present matter in light of the legal

precedences, the impugned order cannot be sustained and deserves to be set aside. The case has to be remanded to the committee to consider it afresh in light of the guidelines issued by the Hon'ble Apex Court in the case of **Avtar Singh Vs. Union of India and others** (cited supra). Hence, the following order :-

ORDER

- (i) The order dated 28.06.2022 issued by the respondent No. 2 is quashed and set aside.
- (ii) The matter is remanded to the respondents for considering it afresh in light of the guidelines issued in the case of **Avtar Singh Vs. Union of India and others** (cited supra) and having regard to the peculiar facts involved in the present matter.
- (iii) The entire exercise is to be carried out within a period of 3 months from the date of this order.
- (iv) The Original Application stands allowed in the aforesaid terms.
- (v) There shall be no order as to costs.

MEMBER (A)

VICE CHARIMAN

PLACE : Aurangabad.

DATE : 26.10.2023