

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 74 OF 2019

[Subject : Police Patil]

DISTRICT: - JALGAON.

Shri Nilesh S/o. Tanha Shinde,
Age-30 years, Occu. : Agriculture,
R/o. Alwadi, Taluka Chalisgaon,
District – Jalgaon – 424 116.
Mobile No. 9975385707

.. APPLICANT.

V E R S U S

1. The State of Maharashtra

Through its Secretary,
Home Department,
Mantralaya, Mumbai 32.

2. The Collector,

Collector Office, Jalgaon.

3. The Sub-Divisional Officer,

Chalisgaon, District Jalgaon.

4. Samadhan S/o. Sudam Patil,

Age – 30 years, Occupation-Police Patil,
R/o. Alwadi, Tq. Chalisgaon,
District – Jalgaon – 424 116.

.. RESPONDENT.

APPEARANCE : Shri. Chandrakant Patil, learned
Advocate holding for Shri Paresh B.
Patil, learned Advocate for the
applicant.

: Shri I.S. Thorat, learned Presenting
Officer for the resp. Nos. 1 to 3.

: Shri P.N. Nagargoje, learned Advocate
holding for Shri Thoke Patil, learned
Advocate for respondent No. 4.

CORAM : **SHRI B.P. PATIL, VICE CHAIRMAN**

DATE : **9TH SEPTEMBER, 2019**

ORDER

By filing the present Original Application the applicant has challenged the order dated 19.12.2018 (Annexure "A-9" page-43) issued by the respondent No. 3 rejecting the application of the applicant filed on 22.11.2018 (Annexure "A-8", page Nos. 39 to 42) contending that the respondent No. 4 has suppressed the material facts while filling up an application form for the post of Police Patil, Village Alwadi, Tq. Chalisgaon Dist. Jalgaon, and appointment order dated 24.08.2018 (page-28-A) issued by respondent No. 3 appointing the respondent No. 4 on the post of Police Patil of Village Alwadi, Taluka Chalisgaon, District Jalgaon and also prayed to appoint him as Police Patil of village Alwadi, Tq. Chalisgaon, District Jalgaon by cancelling the appointment of respondent No. 4.

2. The applicant is resident of village Alwadi, Tq. Chalisgaon, District Jalgaon. Respondent No. 3 viz. the Sub Divisional Officer, Chalisgaon, published an advertisement inviting online applications from the eligible candidates for filling the post of Police Patil of different villages situated in Chalisgaon Taluka including village Alwadi, Tq. Chalisgaon, Dist. Jalgaon on 04.05.2018. In response to the said

advertisement the applicant, respondent No. 4 and other candidates have filed their applications for appointment on the post of Police Patil of village Alwadi, Tq. Chalisgaon, Dist. Jalgaon. They participated in the recruitment process. Respondent No. 4 secured highest marks than the other candidates and, therefore, he was declared as selected candidate. The applicant stood second in recruitment process and, therefore, his name was kept on waiting list for appointment of Police Patil of village Alwadi, Taluka Chalisgaon, District Jalgaon.

3. It is contention of the applicant that as per the terms and conditions mentioned in the advertisement the candidate must possess a good moral character. He has to produce character certificate of the competent Police Officer. He has contended that the respondent No. 4 has suppressed the fact regarding pendency of the criminal case against him and obtained character certificate from the Superintendent of Police, Jalgaon. It is his contention that he had filed application dated 22.11.2018 before the respondent No. 3 challenging the selection of respondent No. 4 on the post of Police Patil of village Alwadi, Taluka Chalisgaon, District Jalgaon. Respondent No. 3 decided the said application and

rejected it on 19.12.2018. It is his contention that the respondent No. 3 had not considered the facts with proper perspective while deciding his application dated 22.11.2018. It is contention of the applicant that the respondent No. 4 has suppressed the material fact regarding criminal case pending against him and obtained appointment order and, therefore, he has filed the present Original Application challenging the appointment order dated 24.8.2011 issued by the respondent No. 3 appointing the respondent No. 4 as Police Patil of village Alwadi, Taluka Chalisgaon, District Jalgaon.

4. Respondent No. 3 has filed his affidavit in reply and resisted the contentions of the applicant in the O.A. It is his contention that he has conducted the selection process of Police Patil in the year 2018 transparently. He has published an advertisement inviting applications from the eligible candidates and in response to the said advertisement the applicant, respondent No. 4 and other candidates have filed their application forms for appointment on the post of Police Patil. He has submitted that all the qualified candidates were informed regarding the date of interview i.e. 13.8.2018. It is his contention that all qualified candidates were informed to submit Educational Qualification Certificate, Character

Certificate and other relevant certificates before the Police Patil Selection Committee at the time of oral interview. Accordingly, the applicant, respondent No. 4 and other qualified candidates had submitted relevant documents on 13.8.2018 before the Selection Committee. After verification of the relevant documents, oral interview of the applicant and respondent No. 4 viz. Shri Samadhan Sudam Patil, has been conducted by the Selection Committee. It is his contention that the respondent No. 4 has submitted character certificate dated 08.08.2018 issued by Superintendent of Police, Jalgaon, wherein it has been mentioned that no crime has been registered against him. It is his contention that after completion of the oral examination result has been declared by the respondent No. 3. The applicant has secured 66 marks in aggregate; while respondent No. 4 secured 68 marks in aggregate. Respondent No. 4 secured highest marks. Hence, respondent No. 3 declared the respondent No. 4 as selected candidate for the post of Police Patil of village Alwadi, Taluka Chalisgaon, District Jalgaon. Accordingly, respondent No. 3 issued the appointment order dated 24.8.2018 in favour of the respondent No. 4. It is his contention that on 22.11.2018 the applicant submitted an application before him stating that a crime has been registered (N.C. complaint)

against the respondent No. 4 at Mehunbare Police Station having N.C.R. No. 482/2016 dated 13.07.2016 for the offences punishable under Sections 323, 504 & 506 of I.P.C. and thereafter a Criminal Miscellaneous Application bearing No. 735/2016 has been filed in the court of J.M.F.C. Chalisgaon on 30.8.2016 against the respondent No. 4 and the same is still pending. It is his further contention that the enquiry has been conducted regarding complaint application filed by the applicant and after considering the Character Certificate issued by the Superintendent of Police in favour of respondent No. 4, the application filed by the applicant has been decided on 19.12.2018. It is his contention that entire recruitment process has been conducted as per the Maharashtra Village Police Patil Act, 1968 and terms and conditions mentioned in the advertisement and there is no illegality in the impugned order. Therefore, he has supported the impugned order and prayed for dismissal of the present Original Application.

5. Respondent No. 4 has filed affidavit in reply and resisted the contentions raised by the applicant in the Original Application. It is his contention that he is permanent resident of village Alwadi, Taluka Chalisgaon,

District Jalgaon. He has obtained the degree i.e. B.Sc. (Botany) from the Dr. Babasaheb Ambedkar Marathwada University in the year 2013. It is his contention that he has no criminal antecedent. He participated in the recruitment process of the Police Patil of village Alwadi, Taluka Chalisgaon, District Jalgaon and after due process he has been selected as Police Patil of village Alwadi, Taluka Chalisgaon, District Jalgaon as he secured highest marks in the examination. It is his contention that a NC complaint bearing No. 482/2016 came to be registered against him along with other accused persons for the offences punishable U/s 323, 504 & 506 of the IPC in the Mehunbare Police Station, Tq. Chalisgaon, Dist. Jalgaon. It is his further contention that criminal case bearing No. MA No. 735/2016 has been pending against him in the Court of J.M.F.C. at Chalisgaon. He has submitted that no cognizance has been taken either by the Police Authority or by the Court in the complaint filed against him and, therefore, he has no knowledge about the aforesaid complaint and criminal case. He has applied for Character Certificate to the Superintendent of Police, Jalgaon. The Superintendent of Police issued the Character Certificate in his favour accordingly and he produced the same before the Selection

Committee. He has submitted that he has not suppressed any material fact and, therefore, no question of cancellation of his appointment on the post of Police Patil of village Alwadi arises. It is his contention that the respondent No. 3 rejected the application of the applicant on 19.12.2018. He has submitted that there is no illegality in the impugned order and, therefore, he prayed for dismissal of the present Original Application.

6. I have heard the arguments advanced by Shri. Chandrakant Patil, learned Advocate holding for Shri Paresh B. Patil, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for the resp. Nos. 1 to 3 and Shri P.N. Nagargoje, learned Advocate holding for Shri Thoke Patil, learned Advocate for respondent No. 4. I have perused the application, affidavit, affidavit in reply filed by the respondents. I have also perused the documents produced on record by both the parties.

7. Admittedly, the applicant and respondent No. 4 both are permanent residents of village Alwadi, Tq. Chalisgaon, District Jalgaon. Admittedly, respondent No. 3 viz. the Sub Divisional Officer, Chalisgaon, published an advertisement inviting online applications from the eligible candidates for

filling the post of Police Patil of villages situated in Chalisgaon Taluka including village Alwadi, Tq. Chalisgaon, Dist. Jalgaon on 04.05.2018. Admittedly, in response to the said advertisement the applicant, respondent No. 4 and other candidates have filed their applications for appointment on the post of Police Patil of village Alwadi, Tq. Chalisgaon, Dist. Jalgaon. Admittedly, the applicant and respondent No. 4 have participated in the recruitment process of Police Patil of village Alwadi, Taluka Chalisgaon, District Jalgaon held in the year 2018. Admittedly, both have appeared for written examination and they were called for oral interview. After oral interview the result of the examination has been declared by the respondent No. 3. Admittedly, the applicant secured 66 marks and respondent No. 4 secured 68 marks in aggregate. Respondent No. 4 stood first in the merit as he secured highest marks. Admittedly, the applicant stood second in recruitment process. Respondent No. 4 has been declared as selected candidate by the respondent No. 3 as he secured highest marks and name of the applicant has been kept in the waiting list. Admittedly, the applicant, as well as, respondent No. 4 submitted documents for verification before the Selection Committee at the time of oral interview. Respondent No. 4 produced Character Certificate issued by

the Superintendent of Police, Jalgaon, wherein it has been stated that no crime has registered against the respondent No. 4. On the basis of the said Character Certificate and on the basis of the result of the examination, the respondent No. 3 appointed the respondent No. 4 as Police Patil of village Alwadi, Taluka Chalisgaon, District Jalgaon by an order dated 24.8.2018.

8. Learned Advocate for the applicant has submitted that the respondent No. 4 has suppressed the material fact regarding criminal case pending against him while submitting an application form for the post of Police Patil, as well as, while obtaining the Character Certificate from Superintendent of Police, Jalgaon and, therefore, the respondent No. 4 breached the condition No. 5 mentioned in the advertisement. The said condition No. 5 reads as under: -

“५. उमेदवाराचे चारित्र निष्कलंक असल्या बाबतचे संबंधित पोलीस स्टेशनचे चारित्र प्रमाणपत्र कागदपत्र पडताळणीच्या वेळी सादर करणे आवश्यक राहिल.”

(Quoted from page-18 of the paper book of O.A.)

Learned Advocate for the applicant has submitted that respondent No. 4 has suppressed the material fact regarding crime pending against him and breached the condition No. 5

mentioned in the advertisement and, therefore, he requested to cancel the appointment of the respondent No. 4. He has submitted that one Sow. Mangalabai Shantaram Sutar had filed a complaint against the respondent No. 4 and therefore, Crime has been registered (N.C. complaint) against the respondent No. 4 at Mehunbare Police Station having N.C.R. No. 482/2016 dated 13.07.2016 for the offences punishable under Sections 323, 504 & 506 of I.P.C. and thereafter she filed a Criminal Miscellaneous Application No. 735/2016 in the court of J.M.F.C. Chalisgaon on 30.8.2016 against the respondent No. 4. He has submitted that learned J.M.F.C. directed the Police Authority to make investigation under Section 156 of Cr. P.C. initially. Thereafter the J.M.F.C. passed the order under Section 202 of Cr. P.C. and directed to make enquiry in the complaint. He has submitted that the complaint was filed in the year 2016. The respondent No. 4 was aware about the said fact, but he suppressed the said material fact while filing the application form for the post of Police Patil and while obtaining the Character Certificate from Superintendent of Police, Jalgaon. He has submitted that the said fact amounts the suppression of material fact and breach of condition No. 5 mentioned in the advertisement. But the respondent No. 3 has issued the appointment order

in favour of the respondent No. 4 illegally. He has submitted that the respondent No. 3 has not considered the said aspect and, therefore, wrongly rejected the objection raised by the applicant. Therefore, he has prayed to quash and set aside the impugned orders dated 19.12.2018 and 24.08.2018 by allowing the present Original Application.

9. Learned Presenting Officer, as well as, learned Advocate for the respondent No. 4 have submitted that the respondent No. 4 has no knowledge regarding the complaint by Sow. Mangalabai Shantaram Sutar, for the offences punishable under Section 323, 504 & 506 of I.P.C. against him, as no cognizance of the complaint had been taken by the Police, as well as, J.M.F.C., Chalisgaon. They have submitted that the complaint filed by Sow. Mangalabai Shantaram Sutar, has been dismissed on 16.3.2019. They have submitted that since no cognizance of the complaint filed by Sow. Mangalabai Shantaram Sutar has been taken by the Police Authority, as well as, J.M.F.C., no question of suppression of material fact by the respondent No. 4 arises. The respondent No. 4 has correctly submitted the information in that regard. The Superintendent of Police has also rightly issued the Character Certificate as per the facts and there is no illegality

in it. They have submitted that the respondent No. 4 has not suppressed any material fact and, therefore, the respondent No. 3 has rightly rejected the application of the applicant. He has submitted that the respondent No. 3 appointed the respondent No. 4 as Police Patil of village Alwadi, Taluka Chalisgaon, District Jalgaon, as he has secured highest marks. The entire recruitment process has been conducted by the respondent No. 3 transparently and there is no illegality in it. Therefore, they have prayed to dismiss the present Original Application.

10. On perusal of the record, it reveals that the applicant and respondent No. 4 had participated in the recruitment process. They appeared for the written examination. Thereafter, they had been called for oral interview scheduled on 13.8.2018. At the time of oral interview they are called to produce original certificates / documents. Accordingly, both respondent No. 4 and the applicant produced original documents before the Selection Committee for verification of the documents. On submission of original documents by the applicant and respondent No. 4 the Selection Committee found that respondent No. 4 produced the character certificate issued by Superintendent of Police, Jalgaon,

wherein it has been mentioned that no crime has been registered against him in the Police Station. On verification of the documents the selection committee permitted the applicant and respondent No. 4 to appear for oral interview. Accordingly, the applicant and respondent No. 4 appeared for oral interview. After completion of the oral interview, respondent No. 3 declared the result of the examination. Respondent No. 4 has secured 68 marks; while the applicant secured 66 marks in aggregate. As respondent No. 4 has secured highest marks he has been declared as selected candidate and the name of the applicant, who stood second in merit was kept in the waiting list. The entire recruitment process has been conducted transparently. There is no illegality in the selection process conducted by the respondent No. 3.

11. On perusal of the record it reveals that a complaint has been filed against the respondent No. 4 with Mehunbare Police Station bearing N.C.R. No. 482/2016 dated 13.07.2016 for the offences punishable under Sections 323, 504 & 506 I.P.C. Thereafter a Criminal Miscellaneous Application No. 735/2016 has been filed against the respondent No. 4 and others in the court of J.M.F.C. Chalisgaon on 30.8.2016.

Learned J.M.F.C. directed the Police Authority to make investigation in the compliant in view of the provisions of Section 156 Cr. P.C. Thereafter, the learned JMFC passed the order and directed enquiry under Section 202 Cr. P.C. But thereafter, the said criminal miscellaneous application came to be dismissed on 16.03.2019. Neither Police or J.M.F.C. took cognizance of the complaint filed by one Mangalbai Sutar. Therefore, no question of knowledge of the complaint filed by Sow. Mangalabai Shantaram Sutar to the respondent No. 4 arises. Since the Criminal Court had not taken cognizance of the complaint filed against the respondent No. 4, he has no knowledge about the same. He has submitted necessary information in the application form in that regard. The Superintendent of Police, Jalgaon, has rightly issued the Character Certificate stating that no crime has been registered against the respondent No. 4. There is no illegality in it. On the basis of the said Character Certificate, respondent No. 3 issued the appointment order in favour of the respondent No. 4. Not only this, but after considering the said document and after making due enquiry he rejected the objection raised by the applicant by an order dated 19.12.2018. On perusal of it, it reveals that the criminal complaint filed by Sow. Sow. Mangalabai Shantaram Sutar,

has been subsequently dismissed on 16.3.2019. In these circumstances, I find no illegality in both the orders issued by the respondent No. 3. Therefore, no interference in it is called for. There is no merit in the Original Application. Hence, it deserves to be dismissed.

12. In view of the discussion in foregoing paragraphs, the present Original Application stands dismissed with no order as to costs.

ACTING CHAIRMAN

PLACE : AURANGABAD.

DATE : 9TH SEPTEMBER, 2019

O.A.NO.74-2019(SB-Police Patil)-HDD-2019