

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 795 OF 2018  
(Subject – Police Patil)**

**DISTRICT : JALGAON**

**Shri Kailas s/o Pandurang Shirsath, )**  
Age : 38 years, Occu. : Agri, )  
R/o Anwarde (Kh), Tq. Chopda, )  
Dist. Jalgaon. )

.. **APPLICANT**

**V E R S U S**

- 1) **The State of Maharashtra, )**  
Through the Secretary, )  
Home Department, )  
Mantralaya, Mumbai. )
- 2) **The Sub-Divisional Magistrate, )**  
Amalner Division, Amalner, )  
Dist. Jalgaon. )

.. **RESPONDENTS**

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**APPEARANCE** : Shri E.S. Murge, Advocate for the Applicant.

: Shri M.S. Mahajan, Chief Presenting Officer for  
the Respondents.

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**CORAM** : **B.P. PATIL, ACTING CHAIRMAN.**

**RESERVED ON** : **03.09.2019.**

**PRONOUNCED ON** : **09.09.2019.**  
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**O R D E R**

1. The applicant has challenged the impugned order dated 13.08.2018 passed by the respondent No. 2 rejecting his candidature for appointment on the post of Police Patil of village Anwarde (Kh), Tq. Chopda, Dist. Jalgaon and prayed to quash

and set aside the same and prayed to direct the respondent No. 2 to issue appointment order in his favour on the post of Police Patil of village Anwarde (Kh), Tq. Chopda, Dist. Jalgaon, by filing the present Original Application.

2. The applicant is residing in the village Anwarde, Tq. Chopda, Dist. Jalgaon. He belongs to Tokare Koli which is under S.T. category. He is possessing qualification of S.C.C. and diploma in Agriculture. The respondent No. 2 has published an online advertisement on 04.05.2018 inviting online applications to fill up the post of Police Patil in different villages of Amalner Division, Dist. Jalgaon. In pursuance of the said advertisement, the applicant applied for the post of Police Patil of village Anwarde (Kh), Tq. Chopda, Dist. Jalgaon from the reserve category i.e. from S.T. category. Thereafter, he participated in the recruitment process for the post of Police Patil. He appeared for written examination, which was conducted on 22.07.2018 along with other candidates. One Shri Vilas Prakash Shirsath had also appeared for the written examination. In the written examination, the applicant has secured 47 marks, while Shri Vilas Shirsath has secured 37 marks. The applicant stood first in the merit list. Therefore, the applicant and Shri Vilas Shirsath were called for oral interview and submitted their original

documents for verification before the respondent No. 2. Meanwhile, one unknown person had filed an application/complaint giving false name and resident of village Anwarde before the respondent No. 2 and requested not to appoint the applicant on the post of Police Patil of village Anwarde (Kh), Tq. Chopda, Dist. Jalgaon, as one criminal case was registered against the applicant. It is contention of the applicant that after scrutiny of the documents, he appeared for the oral examination and his performance in the oral examination was good. He was waiting for the final result of the oral interview. Meanwhile, on 13.08.2018, the respondent No. 2 passed the impugned order and rejected his candidature on the ground that a Criminal case bearing Crime No. 53/2017 for the offences punishable under section 353, 332, 506, 427 was registered against him and therefore, he is not eligible for appointment on the post of Police Patil of village Anwarde (Kh), Tq. Chopda, Dist. Jalgaon. It is contention of the applicant that the impugned order is not legal one and it is not in accordance with the terms and conditions mentioned in the advertisement. The advertisement published by the respondent No. 2 does not show any condition about ineligibility of the candidates for the post of Police Patil against whom criminal case is registered or pending. It is his contention that the registration of criminal case does not disqualify him for

appointment on the post of Police Patil unless and until he is held guilty by the Court. It is his contention that he is reputed person in the village and he has not committed any offence. However, due to some political rivalry, the Gramsevak has given false complaint against him and on the basis of his complaint a false case has been registered against him. It is his contention that the case is sub-judice and therefore, the respondent No. 2 ought not have declared him as ineligible for the post of Police Patil. Therefore, he has challenged the impugned order passed by the respondent No. 2 on 13.08.2018 by filing the present Original Application and to quash and set aside the same and prayed to direct the respondent No. 2 to appoint him on the post of Police Patil of village Anwarde (Kh), Tq. Chopda, Dist. Jalgaon.

3. The respondents have failed to file thier affidavit in reply.

4. I have heard Shri E.S. Murge, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

5. Admittedly, the applicant is residing in the village Anwarde, Tq. Chopda, Dist. Jalgaon and he belongs to Tokare

Koli, which is under S.T. category. He is possessing qualification of S.C.C. and diploma in Agriculture. Admittedly, on 04.5.2018, the respondent No. 2 issued online advertisement and invited online applications of the aspiring candidates for the post of Police Patil in different villages of Amalner Division, Dist. Jalgaon. Admittedly, the applicant and one Shri Vilas Prakash Shirsath had filled up the online applications for the post of Police Patil of village Anwarde (Kh), Tq. Chopda, Dist. Jalgaon and appeared for the written examination which was conducted on 22.07.2018. The applicant secured 47 marks, while Shri Vilas Shirsath secured 37 marks in the written examination and they stood first and second respectively in the merit list. Admittedly, they were called for oral interview, which was conducted on 13.08.2018. There is no dispute about the fact that meanwhile, one unanimous complaint has been filed against the applicant before the respondent No. 2 alleging that the applicant was involved in the criminal case and the said case is pending. The respondent No. 2 made an enquiry in that regard and verified the documents produced by the applicant. During the verification of the character certificate produced by the applicant, it reveals that a Crime No. 53/2017 for the offences punishable under section 353, 332, 506, 427 was pending against the applicant and therefore, his candidature has not

been accepted by the respondent No. 2. Therefore, the respondent No. 2 issued the impugned order dated 13.08.2018.

6. Learned Advocate for the applicant has submitted that there is no mention in the advertisement or terms and conditions mentioned therein that pendency of the criminal case disqualifies the candidature of the candidates for the appointment on the post of Police Patil. He has submitted that the applicant was involved in the false case due to political rivalry and the said case has not been yet decided by the Court and therefore, he cannot be held guilty of the charges and consequently he cannot be held ineligible for the post of Police Patil. He has submitted that the respondent No. 2 has not considered the said aspect and rejected the candidature of the applicant. He has submitted that the applicant has secured highest marks in the written examination and he was eligible for the oral interview, as well as, for the appointment on the post of Police Patil of village Anwarde (Kh), Tq. Chopda, Dist. Jalgaon, on merit. But the respondent No. 2 has wrongly rejected the candidature of the applicant and therefore, he has prayed to quash and set aside the impugned order by allowing the present Original Application.

7. Learned Advocate for the applicant has placed reliance on the order passed by the Hon'ble Supreme Court of India in **Civil Appeal No. 1430 of 2007** in case of **Commr. Of Police and Ors. Vs. Sandeep Kumar** decided on 17.03.2011 in support of his submissions.

8. Learned Chief Presenting Officer has submitted that the advertisement shows that the candidate must possess good character. He has submitted that the applicant has produced character certificate/Police Clearance Certificate issued by the Superintendent of Police, Jalgaon (page no. 24 of paper book of O.A.), which shows that the criminal case bearing Case No. 53/2017 for the offences punishable under section 353, 332, 506, 427 of I.P.C. has been registered against the applicant and the said case is pending in the court of JMFC, Chopda. He has submitted that the said fact has been noticed by the respondent No. 2 at the time of verification of the documents before the oral examination and meanwhile, he has received one complaint in that regard. Therefore, after verifying the documents, the respondent No. 2 passed the impugned order. He has submitted that the post of Police Patil is key and sensitive post in the villages. The person to be appointed on the post of Police Patil must bear good character and he should not have criminal

antecedent. Therefore, considering the nature of the offences registered against the applicant and pendency of the criminal case, the respondent No. 2 has rightly rejected the candidature of the applicant by the impugned order dated 13.08.2018. He has submitted that there is no illegality in the impugned order and therefore, he justified the same and prayed to dismiss the present Original Application.

9. On perusal of the record, more particularly advertisement dated 04.05.2018 (Annexure A-1, Page Nos. 12 to 16) it reveals that in the said advertisement at page No. 15, it is one of the conditions that the candidate must possess good character. Accordingly, the applicant has filed application and produced documents for verification before oral examination. He produced the character certificate/Police Clearance Certificate (page No. 24 of the paper book) before the respondent No. 2 at the time of oral interview. The said document shows that a Criminal case No. 53/2017 for the offences punishable under section 353, 332, 506, 427 was pending against the applicant. It shows that the applicant was involved in the criminal case involving the offences of serious nature. The post of Police Patil is key and sensitive post in the village. The person to be appointed on the post of Police Patil should have good moral



character. He could not have criminal antecedent and therefore, considering the nature of the offences, the respondent No. 2 has rejected the candidature of the applicant and held that the applicant is not eligible for the appointment on the post of Police Patil of village Anwarde (Kh), Tq. Chopda, Dist. Jalgaon and accordingly, passed the order dated 13.08.2018. In these circumstances, in my view, there is no illegality in the impugned order. Therefore, no interference is called for in the impugned order.

10. I have gone through the decision relied on by the learned Advocate for the applicant. I have no dispute regarding legal principles laid down therein. The facts in the above cited case are not identical with the findings in the instant case. In that case, the petitioner was already acquitted in the criminal case before issuance of the advertisement for filling up the post of Head Constable. But that aspect was not considered by the recruitment authority and therefore, he was held eligible. But in the instant case, the facts are totally different. The applicant in the present case involved in the serious crime and the matter is *subjudice*. Therefore, the principles laid down in the above cited decision are not attracted in the instant case.

11. As discussed above, the respondent No. 2 has rightly rejected the candidature of the applicant considering the pendency of the criminal case, in which the applicant is involved. The impugned order is legal and proper and therefore, no interference is called for in it. There is no merit in the present Original Application. Consequently, the O.A. deserves to be dismissed.

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

**PLACE : AURANGABAD.**  
**DATE : 09.09.2019.**

**(B.P. PATIL)**  
**ACTING CHAIRMAN**

**KPB** S.B. O.A. No. 795 of 2018 BPP 2019 Police Patil