

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 145 OF 2016
(Subject – Police Patil)**

DISTRICT: OSMANABAD

Shri Ramrao S/o Bapasaheb Dhakne,)
Age: 56 years, Occu. : Agri.,)
R/o Jola, Tq. Kaij, Dist. Beed.) .. **APPLICANT**

V E R S U S

1) **The State of Maharashtra,)**
Through it's Secretary,)
Home Department,)
Mantralaya, Mumbai.)

2) **The Sub Divisional Magistrate,)**
Ambajogai, Tq. Ambajogai,)
Dist. Beed.) .. **RESPONDENTS**

APPEARANCE : Shri R.D. Khadap, learned Advocate holding for
Shri S.S. Thombre, learned Advocate for the
Applicant.

: Shri S.K. Shirse, learned Presenting Officer for
the Respondents.

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J).

DATE : 06.04.2018.

O R D E R

1. The applicant has challenged the order dated 15.10.2015 issued by the respondent No. 2 terminating his services as Police Patil of village Jola, Tq. Kaij, Dist. Beed by filing the present Original Application.

2. The applicant was working as a Police Patil of village Jola, Tq. Kaij, Dist. Beed. On 11.09.2014, one Sunil Jagantha Lungare Assistant Superintendent of Civil Court Junior Division Kaij has filed complaint bearing SSC No. 308/2014 before the Judicial Magistrate First Class Kaij alleging that the applicant has given solvent surety for Rs. 15000/- of Yhadev @ Sahadev Vaybase who is accused in regular criminal case No. 250/2010 by producing 7/12 extract of Gut No. 170. It is further alleged that a criminal case bearing Regular Criminal Case No. 287/2012 was also pending before the J.M.F.C. Kaij and in that case, the applicant stood guarantor to the accused viz. Mahadeo on 20.09.2013. But the applicant had suppressed the said material facts while filing affidavit on 18.04.2014 and stated that he had not stood surety earlier. But the said fact has been brought to the notice of the J.M.F.C. Kaij and therefore, the J.M.F.C., Kaij ordered to file complaint against the applicant. Accordingly, a Summary Criminal Case No. 308/2014 has been registered and J.M.F.C., Kaij issued process against the accused on 11.09.2014. The applicant appeared in the matter on the very day and pleaded guilty voluntarily. The J.M.F.C. Kaij accepted his plea and convicted the accused of the offence punishable u/s 199 and sentenced him to suffer simple impressments till rising of the Court and to pay fine of Rs. 2000/- in default to undergo simple imprisonment for 15 days.

3. On 27.10.2014, one Bhanudas Vaijinath Sarukhe R/o Jola filed complaint application with the respondent No. 2 alleging that the applicant who was working as a Police Patil of village Jola Tq. Kaij, Dist. Beed has filed false affidavit in the Court of J.M.F.C. Kaij and therefore, the complaint has been filed against him and he was convicted accordingly. He has contended that the applicant had undergone simple imprisonment till rising of the Court and paid fine of Rs. 2000/- and therefore, he prayed to suspend the applicant.

4. The respondent No. 2 had issued show cause notice to the applicant on 29.01.2015 as to why he should not be terminated from the post of Police Patil of village Jola, Tq. Kaij, Dist. Beed in view of his conviction in a Criminal Case. The applicant has filed his reply to the said show cause notice, stating that he had given affidavit in the Court of J.M.F.C., Kaij inadvertently. He has contended that the order passed by the J.M.F.C., Kaij in criminal case does not amount conviction. The respondent No. 2 thereafter, passed the impugned order dated 15.10.2015 and terminated the services of the applicant as Police Patil of village Jola, Tq. Kaij, Dist. Beed.

5. It is contention of the applicant that the respondent No. 2 had not followed the due procedure of law while terminating his services. It is his contention that the conviction and sentence

awarded by the J.M.F.C. Kaij is short term sentence and therefore, it is not a just ground for terminating his service as Police Patil of village Jola, Tq. Kaij, Dist. Beed. It is his contention that the respondent No. 2 ought to have conducted independent enquiry before passing the impugned order of termination, but the respondent No. 2 had not conducted such enquiry and therefore, the impugned order is illegal. Therefore, he prayed to allow the present O.A. and to quash and set aside the impugned order dated 15.10.2015 passed by the respondent No. 2 terminating his services as Police Patil of village Jola, Tq. Kaij, Dist. Beed.

6. The respondent No. 2 has filed his affidavit in reply and resisted the contention of the applicant. He has admitted the fact that the applicant was serving as a Police Patil of village Jola, Tq. Kaij, Dist. Beed. He has also admitted the fact that one Bhanudas Vaijinath Sarukhe had filed the complaint-application before the S.D.M. Ambajogai on 27.10.2014 contending that the applicant was convicted in criminal case and prayed to suspend him. He has admitted the fact that he had issued show cause notice to the applicant as to why he should not be terminated from the post of Police Patil and the applicant had filed reply to the show cause notice. It is his contention that after considering the reply of the applicant, he took a conscious decision and terminated the services of the applicant as Police Patil of village

Jola, Tq. Kaij, Dist. Beed, as he was convicted by the J.M.F.C. Kaij and he had undergone the sentence. It is his contention that the impugned order has been passed by him in view of the provisions of Maharashtra Village Police Act 1967 after following the due process of law and there is no illegality in the order. On these grounds, he has prayed to dismiss the present O.A.

7. I have heard Shri R.D. Khadap, learned Advocate holding for Shri S.S. Thombre, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

8. Admittedly, the applicant was serving as a Police Patil of village Jola, Tq. Kaij, Dist. Beed. Admittedly, the applicant stood guarantor to one Yhadev @ Sahadev Vaybase accused in SSC No. 308/2014 and submitted his surety bond in the Court of J.M.F.C. Kaij. While submitting the surety bond, he has stated on oath that he had not stood guarantor to any other person previously, though he stood guarantor to accused Mahadeo in R.C.C. No. 287/2012, which was pending with the J.M.F.C. Kaij and submitted surety bond on 20.09.2013. The J.M.F.C. Kaij on considering the facts and documents held that the applicant suppressed the material fact that he was standing surety to accused in earlier case, while standing surety to the accused in

S.C.C. No. 308/2014 and submitted false affidavit in that regard. Therefore, he directed the Assistant Superintended of Civil Court Junior Division, Kaij to file complaint against the applicant. Accordingly, Sunil Jaganath Lungare, Assistant Superintendent of Civil Court Junior Division, Kaij had filed a complaint in the Court of J.M.F.C. which was registered as SSC No. 308/2014 for the offences punishable u/s 199 of I.P.C. The J.M.F.C. Kaij has issued process against the applicant on 11.09.2014. In pursuance of the process issued against the applicant, the applicant appeared in the matter and voluntarily pleaded guilty to the charges leveled against him. The J.M.F.C., Kaij accepted his plea and convicted the applicant/accused for the offences punishable u/s 199 of I.P.C. and sentenced him to suffer simple imprisonment till rising of the Court and to pay fine of Rs. 2000/- in default to suffer simple imprisonment for 15 days by his order dated 11.09.2014. The applicant had paid fine on the very day and undergone the sentence. Admittedly, one Bhanudas Vaijinath Sarukhe R/o Jola had filed a complaint against the applicant with the respondent No. 2 on 27.10.2014 alleging that the applicant was working as Police Patil of village Jola, Tq. Kaij, Dist. Beed and he submitted false affidavit in the Court of JMFC Kaij and he was convicted and sentenced by the J.M.F.C. Kaij for it. The respondent No. 2 has issued a notice to the applicant on 29.01.2015 to show cause as to why he should not terminated

from the post of Police Patil of village Jola, Tq. Kaij, Dist. Beed. The applicant had given reply to the said show cause notice and after considering his reply, the impugned order has been passed by the respondent No. 2.

9. Learned Advocate for the applicant has submitted that the applicant was convicted in a Criminal Case and sentenced to suffer simple imprisonment till rising of the Court and to pay fine of Rs. 2000/-in default simple imprisonment for 15 days. He has submitted that the said punishment is of minor nature and the charges against the applicant are not of serious nature and it was not of moral turpitude. Therefore, on the ground of conviction the services of the applicant cannot be terminated in view of the provisions of Maharashtra Police Act, 1967. He has submitted that the respondent No. 2 had not followed due process of law while terminating the services of the applicant. No enquiry has been conducted by the respondent No. 2 and therefore, the impugned order is illegal. Therefore, he prayed to set aside the impugned order by allowing the present Original Application.

10. Learned Presenting Officer has submitted that the SDM, Ambajogai, who is the appointing authority of the Police Patil had received the complaint of one Bhanudas Vaijinath Sarukhe R/o Jola about the conviction of the applicant in Criminal Case. The respondent No. 2 issued show cause notice to

the applicant and the applicant had given reply to the said show cause notice and admitted the fact regarding conviction and sentence imposed on him. Thereafter, respondent No. 2 S.D.M., Ambajogai passed the impugned order in view of the provisions of Maharashtra Village Police Patil Act 1967. He has submitted that an opportunity of hearing had been given to the applicant by the respondent No. 2 before passing impugned order and therefore, there is no illegality in the said order. Hence, he prayed to reject the present O.A.

11. On going through the documents on record it is crystal clear that the applicant was serving as a Bhanudas Vaijinath Sarukhe R/o Jola at the relevant time. Admittedly, Sub Divisional Magistrate, Ambajogai is the Appointing Competent Authority of the Police Patil in view of the provisions of Section 3 of the Maharashtra Village Police Act, 1967. There is no dispute about the fact that the applicant has been convicted by the JMFC, Kaij for offences punishable u/s 199 of the I.P.C. and he was sentenced to suffer simple imprisonment till rising of the Court and to pay fine of Rs. 2000/- in default to suffer simple imprisonment for 15 days. The applicant had undergone sentence and deposited fine amount on the very day. The said conviction and sentence has not been challenged by the applicant. On receiving the complaint from Bhanudas Vaijinath Sarukhe R/o

Jola, the respondent No. 2 issued a show cause notice to the applicant on 29.01.2015, to which the applicant has given reply. After considering the reply of the applicant, the respondent No. 2 passed the impugned order on 15.10.2015 and terminated the services of the applicant in view of the provisions of Maharashtra Village Police Act, 1967. The said fact shows that an opportunity of hearing was given to the applicant by the respondent No. 2 before passing the impugned order. The principles of natural justice have been followed by the respondent No. 2 before passing the impugned order. Therefore, in my opinion, there is no substance in the contention of the applicant that due process of law has not been followed by the respondent No. 2 while passing the impugned order. There is no illegality in the order passed by the S.D.M. Ambajogai.

12. The respondent No. 2 i.e. the Sub Divisional Magistrate, Ambajogai is the appointing authority of the applicant. In view of the provisions of Section 9 of the Maharashtra Village Police Act, 1967, the Sub Divisional Magistrate is the competent authority to impose penalty as provided under the section. The relevant provision runs as under :-

“9. Any Police-patil or member of a village establishment liable to be called on or for the performance of Police duties, who shall be careless, or negligent in the discharge of his duties or guilty of any

misconduct shall be liable to the following penalties, namely:-

- (a) censure ;***
- (b) recovery from his remuneration of the whole or part of any pecuniary loss caused to Government;***
- (c) fine, not exceeding his remuneration for a month;***
- (d) suspension, for a period not exceeding one year;***
- (e) removal from service, which shall not disqualify from further employment under Government;***
- (f) dismissal from service which shall ordinarily disqualify from further employment under Government .***

Any of the penalties, mentioned in clauses (a) to (d) may be imposed by any Executive Magistrate not below the rank of Taluka Magistrate, and the penalties mentioned in clauses (e) and (f) may be imposed by any Executive Magistrate not below the rank of Sub-Divisional Magistrate who is competent to make the appointment of the Police-patil. ”

13. The applicant was convicted for the offences punishable u/s 199 of the I.P.C. for suppressing material fact and for submitting false affidavit in the Court of law. He has undergone the sentence imposed on him and deposited fine amount. This amounts misconduct on the part of the applicant. An opportunity was given to the applicant to defend himself before passing the impugned order by the respondent No. 2. But in reply given by the applicant, he has admitted all these facts and

therefore, the respondent No. 2 has held him guilty of the misconduct and imposed penalty of dismissal from services as provided under Section 9 of the Maharashtra Village Police Act 1967. The respondent No. 2 has rightly exercised the powers under Section 9 of the Maharashtra Village Police Act, 1967. Therefore, in my opinion, there is no illegality in the impugned order. Hence, no interference is called for in the impugned order. There is no merit in the O.A., consequently, it deserves to be dismissed.

14. In view of the discussions in foregoing paragraphs, the O.A. stands dismissed with no order as to costs.

PLACE : AURANGABAD.
DATE : 04.04.2018.

(B.P. PATIL)
MEMBER (J)

KPB S.B. O.A. No. 145 of 2016 2018 POLICE PATIL