

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.513 OF 2022

**DISTRICT : RAIGAD
SUBJECT : POLICE PATIL
DISMISSAL**

Shri Subhash Pandurang Kadam,)
Aged 49 Yrs, Occ. Nil)
Ex. Police Patil, R/o. A/P Sarve,)
Tal. Shrivardhan, Dist. Raigad.)
Mobile No.7588344157.)
subhashpkadam26@gmail.com)... **Applicant**

Versus

1) The Sub-Divisional Officer,)
Shrivardhan, Having Office at Shrivardhan,)
Dist. Raigad.)

2) The Additional Commissioner,)
Konkan Division, Having office at)
Konkan Bhawan C.B.D. Belapur, Navi Mumbai)
Dist. Thane.)...**Respondents**

Shri Arvind. V. Bandiwadekar, learned Advocate for the Applicant.

Shri Ashok J. Chougule, learned Presenting Officer for the Respondents.

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

DATE : 15.12.2022.

JUDGMENT

1. The Applicant has challenged order passed by Respondent No.1 – Sub Division Officer (S.D.O.), Shrivardhan, Dist. Raigad thereby dismissing him from the post of Police Patil invoking Section 9 (f) of Maharashtra Village Police Act, 1967.

2. Shortly stated undisputed facts giving rise to this O.A. are as under:-

The Applicant is resident of Village Sarve, Tal. Shrivardhan, Dist. Raigad, Respondent No.1 published advertisement / notification on 27.06.2016 to fill-in the post of Police Patil, Village Sarve. The Applicant participated in the process and was selected. Respondent No.1 accordingly issued appointment order in his favour by order dated 10.09.2016. However, later on one Motiram Balram Parbalkar lodged compliant dated 22.03.2016 with Tahasildar alleging that the Applicant filed false Affidavit while applying for the post of Police Patil. Tahasildar directed Circle Officer to make enquiry and submit the report. Accordingly, Circle Officer submitted report to Tahasildar which he forwarded to S.D.O. S.D.O. gave Show Cause Notice to the Applicant. After hearing, by order dated 07.09.2019, S.D.O. dismissed the Applicant from the post of Police Patil invoking Section 9 (f) of Maharashtra Village Police Act, 1967. The Applicant has challenged it in the present O.A.

3. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

4. Now let's see whether the Applicant has committed breach of terms and conditions and suppressed material facts.

5. Condition No.4 as per advertisement for the post of Police Patil is as under:-

“अर्जदाराचा नेमणुकीच्या गावी स्थानिक स्वरूपाचा उद्योग करणारा नसावा, इतर ठिकाणी संपूर्ण वेळ नोकरी या धंदा करणारा नसावा ग्रामपंचायत सदस्य तसेच खाजगी किंवा निमसरकारी संस्था अथवा पूर्ण वेळ नोकरी करणारा नसावा. याबाबतचे रुपये १००च्या/-स्टॅम्प पेपरवरील प्रतिज्ञापत्र पडताळणीच्या वेळी सादर करणे आवश्यक राहिल.”

6. Compliant dated 22.03.2016 filed by Shri Motiram Balram Parbalkar is not forthcoming on record. However, letter of Tahasildar dated 02.08.2017 reveals that Shri Motiram Balram Parbalkar made

certain allegation against the Applicant which Tahasildar has set-out in the letter whereby Circle Officer was directed to conduct enquiry and submit report.

१. “पाणलोट समिती सचिव या नेमणुक बददल त्याला दरमहा मानधन रु३०००/-मिळत आहे.
२. त्याच्या स्वतःच्या नावावर स्वतःची मिनीडोअर आहे. तो दिघी ते सर्वा बोर्लीपंचतन रोज चालु आहे व मिनीडोअर संघटनेचा सादरस्य आहे.
३. त्याने पोलीस पाटील भरतीसाठी केलेले प्रतिज्ञापत्र हे पुर्णतः सरकारच्या डोळ्यात धुक फेकली आहे. हे प्रतिज्ञापत्र खोटे आहे.
४. नमुदपोलीस पाटील हे गावाचे कमिटीवर सेक्रेटरी म्हणून काम पाहत असल्याने वारंवार माझे विरुध्द दबाब तंत्राचा वापर करीत आहे.
५. नमुद पोलीस पाटील यांचे विरुध्द यापुर्वी दिघी सागरी पोलीस ठाणे चॅप्टरकेस नंबर ३/२०१६ सी.आर.पी.सी १०७ अन्वये दाखल आहे.
६. नमुद पोलीस पाटील यांनी मला दि.१२/२/२०१७ रोजी माझे वाहनासमोर येऊन माझा रस्ता अडविण्याचा प्रयत्न केला म्हणुन त्याचे विरुध्द दिघी सागरी पोलिस ठाणे येथे तक्रार अर्ज दिला आहे.”

7. Admittedly at the time of filing application for the post of Police Patil the Applicant submitted Affidavit which is at exhibit Page-4 of the P.B. and the contents are as under:-

“

प्रतिज्ञापत्र

मा. कार्यकारी दंडाधिकारी साहेब श्रीवर्धन यांचे समक्ष हजर राहून मी लिहून देणारा श्री. सुभाष पांडुरंग कदम, वय ४२ वर्ष, मु. पो. सर्व, ता. श्रीवर्धन, जि. रायगड.

कारणे सत्यप्रतिज्ञेवरून सत्यकथन करतो की, मी वरील ठिकाणचा रहीवाशी आहे. मी कोणत्याही ठिकाणी खाजगी अथवा शासकीय/निमशासकीय स्वरूपाची कोणतीही नोकरी करीत नाही तसेच मी अन्यत्र कोठेही पुर्ण वेळ नोकरी करीत आहे. तसेच कोणताही पुर्णवेळ व्यवसाय करीत आहे. हे प्रतिज्ञापुर्वक लिहून देतो. सदर प्रतिज्ञापत्र मा. उपविभागीय दंडाधिकारी साहेब श्रीवर्धन यांसकडे पोलीस पाटील पदावर नियुक्ती करिता सादर करणेकामी करणेस कारण पडले.”

8. Whereas, S.D.O. by impugned order dismissed the Applicant with following conclusion.

“प्रस्तुत तक्रार अर्जकामी तक्रारदार, पोलीस पाटील यांचे म्हणणे,कार्यकारी दंडाधिकारी श्रीवर्धन, व सहा. पोलीस निरीक्षक दिघी सागरी पोलीस ठाणे यांचे अहवाल, तसेच प्रकरणी पुराव्यादाखल सादर केलेले कागदपत्र यांची छाननी करता असे दिसून येते की, मौजे सर्व ता. श्रीवर्धन, जि. रायगड येथील पोलीस पाटील श्री.

सुभाष पांडुरंग कदम यांनी पोलीस पाटील भरतीचे वेळी निवड कार्यपद्धती अटी व शर्ती दिलेले असतात त्यामध्ये प्रमुख अर्त “अर्जदार कोणत्याही राजकीय पक्षाशी संबंधित नसावा, इतर ठिकाणी संपूर्णवेळ नोकरी वा धंदा करणारा नसावा. त्याचप्रमाणे ग्रामपंचायत सदस्य नसावा. तसेच खाजगी किंवा निमसरकारी संस्थेचा सदस्य नसावा. अथवा पूर्णवेळ नोकरी करणारा नसावा. याबाबतचे रु.१००/- रुपयांचं स्टॅप पेपरवरील प्रतिज्ञापत्र, कागदपत्र पडताळणीच्या वेळी सादर करणे आवश्यक राहिल. त्यानुसार पोलिस पाटील श्री. कदम यांनी दिनांक ०९/०९/२०१६ रोजी कार्यकारी दंडाधिकारी श्रीवर्धन यांचेसमोर केलेल्या प्रतिज्ञापत्र असे नमूद केलेले आहे की, मी कोणत्याही ठिकाणी खाजगी अथवा शासकीय/निमशासकीय स्वरूपाची कोणतीही करीत नाही तसेच मी अन्यत्र कोठेही पूर्णवेळ नोकरी करीत नाही. तसेच कोणताही पूर्णवेळ व्यवसाय करीत नाही. परंतु तक्रारदार यांनी तक्रारअर्जा सोबत जोडलेल्या. कागदपत्रावरून पोलीस पाटील यांचे नावावर मीनीडोअर नोंदणी असून तीचा वापर ते दिघे ते सवे बोलीपंचतन रोज चालू असून ते मिनी डोअर संघटनेचे सदस्य आहेत. तसेच पोलीस पाटील श्री. कदम हे पाणलोट समिती सचिव असून त्यांना दरमहा मानधन रुपये ३०००/- मिळत आहेत. जरी त्यांना ते स्वीकारले नसेल तरी त्यांना राजीनामा पोलीस पाटील नियुक्त झालेनंतर मंजूर झालेल्या नव्हता म्हणजेच पोलीस पाटील श्री कदम यांनी पोलीस पाटील पदाच्या नियुक्तीसाठी जी महत्त्वाची अट आहे. तसेच त्यांचाच भंग केलेला आहे. शिवाय त्यांचे विरुद्ध चॅप्टर केस न. ३/२०१६ दाखल झालेचेही कागदपत्रांवरून दिसून येते. यावरून पोलीस पाटील श्री. कदम यांनी नियुक्तीच्या वेळी ते अन्यत्र मानधनीय नोकरी व पूर्णवेळ व्यवसाय करीत असतानाही कोणतीही नोकरी व्यवसाय करीत नाही. अशी चुकीची माहिती देऊन पोलीस पाटील पदी नियुक्ती मिळालेली आहे. सदरची बाब पोलीस पाटील नियुक्तीसाठी चुकीची असल्याने मी उपविभागीय दंडाधिकारी श्रीवर्धन मला मिळालेली महाराष्ट्र ग्राम पोलीस अधिनियम १९६७ चे कलम ९ (फ)चा वापर करून खालीलप्रमाणे आदेश करीत आहे.

आदेश

श्री. सुभाष पांडुरंग कदम पोलीस पाटील सर्वे, ता. श्रीवर्धन यांना पोलिस पाटील पद भरतीवेळी चुकीची माहिती देऊन नियुक्ती मिळाल्याबद्दल या आदेशाच्या बजावणीच्या दिनांकापासून पोलीस पाटील सर्वे ता.श्रीवर्धन या पदावरून महाराष्ट्र ग्राम पोलीस अधिनियम १९६७ चे कलम ९ (फ) अन्वये बडतफे करण्यात येत आहे.”

9. In view of above, question posed for consideration is whether the Applicant was ineligible for the post of Police Patil for the reasons recorded by S.D.O. Perusal of impugned order reveals that S.D.O. came to the conclusion of ineligibility of the Applicant for the post of Police Patil mainly on the following ground:-

- A) The Applicant runs Mini Door business for plying Mini Door rickshaw from Dighe to Sarve and is a Member of Mini Door association.
- B) The Applicant was Secretary of Panlot Samiti and was getting honorarium of Rs.3,000/- per month.
- C) The resignation of the Applicant as the Secretary of Panlot Samiti was not accepted till date of his appointment as Police Patil.
- D) There was Chaptar Case No.4/2016 under section 116(6) of Criminal Procedure Code, 1973 against the Applicant.

For the above conclusion, S.D.O. held that the Applicant has suppressed material facts and thereby invited disqualification and dismissed him from the post of Police Patil invoking Section 9(f) of Maharashtra Village Police Act, 1967.

10. Shri A.V. Bandiwadekar, learned Advocate for the Applicant made two folds submission to assail the impugned order. He submits that there could be no such dismissal from service from the post without initiating D.E. In 2nd line of submission he urged that conclusion recorded by S.D.O. for dismissing the Applicant is totally incorrect and unsustainable in law and facts.

11. Per contra, learned P.O. sought to justify the impugned order *inter-alia* contending that the conclusion recorded by S.D.O. needs no interference.

12. Insofar as necessity of holding D.E. is concerned, no doubt Maharashtra Village Police Patils (Recruitment, Pay, Allowances and Other Conditions of Service) Order, 1968 (hereinafter referred 'Order 1968' for brevity) provides procedure to be observed for imposing penalties upon Police Patil. Whereas, penalties to be imposed upon Police Patil are mentioned under Section 9 (f) of Maharashtra Village

Police Patil Act, 1967 and dismissal is one of the punishment. Such dismissal shall inordinately disqualify from future employment in Government. Suffice to say, it is in the case of mis-conduct committed by the Police Patil during the course of his duty, in that event procedure of adopting regular D.E. is contemplated / provided under order 9 (a) of Order, 1968 is essential.

13. Whereas, in present case there is no case of mis-conduct after appointment of Police Patil. Here is the case of eligibility and suppression of fact while making application for the post of Police Patil. Therefore, it was not a case in which regular D.E. was warranted. Indeed, Respondent No.1 has wrongly quoted the provision as Section 9 (f) of Maharashtra Village Police Patil Act, 1967. As a matter of fact and law, it was a matter of alleged ineligibility and cancellation of the appointment order and not of dismissal. Be that as it may, next important question comes whether conclusion recorded by S.D.O. are legally and factually sustainable to hold the Applicant ineligible for the post of Police Patil. As per the advertisement, his candidature should not have fulltime service. Indeed, Rule 8 of Order, 1968 permits to cultivate land or engage in business or trade in the village, Rule 8 is as under:-

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

14. Now turning to the facts of present case the Applicant admits that he is running Mini Door rickshaw business and Member of Organization of Mini Door rickshaw owners. Since Order, 1968 as referred to above, permit engagement in local business the Applicant cannot be said ineligible on that point. In Affidavit all that he has stated that he is not doing any kind of service with Government or Semi Government or

Organization and not doing fulltime business. It is no way the case of Respondents that the Applicant is not available 24 hours or he is doing 24 hours business. This being the situation, running of part time business can hardly be termed disqualification.

15. As regard honorarium Secretary of Panlot Samiti the Applicant has tendered letter of Taluka Agricultural Officer (Pg 40) in which it is clearly stated that the Applicant has tendered resignation of the post of Secretary on 04.09.2016. In letter it is further clarified that the Applicant had not accepted honorarium from July 2016 onwards. This being the factual position that could not have been a ground of declaring the Applicant ineligible for the post of Police Patil. Apart, holding honorary post in Panlot Samiti can hardly be construed disqualification or ineligibility. These aspects are made clear by the Government by issuance of letter dated 10.05.1983 whereby it is clarified that Police Patil is paid honorarium and not wages and is expected to have his independent source of livelihood, cultivation of land or engagement in legal business. It is further clarified that candidates for the post of Police Patil should not be a Member or associated with Political party or organization taking part in Politics. Notably it further states that office bearer or Member of local body and his candidature for the post of Police Patil may be considered for such post and he can be appointed for the of Police Patil on his actual resignation from that body. In this behalf Hon'ble High Court in **2015(6) Mh.L.J. 393 (Sunita V/s. District Collector, Ahmednagar)** held that at Village level Vividh Karyakari Society, which caters to the farmer cannot be said to be a Society involved in any political movement or political activities since the main object of Vividh Karyakari Society is restricted to the welfare of Agriculturist. In present case the Applicant was honorary Secretary of Panlot Samiti to oversee distribution of water for irrigation and such a Society cannot be termed involved in political activities or movement. As such, the conclusion of S.D.O. that Applicant on that ground is ineligible is obviously erroneous.

16. Then it comes to Chapter case. All that S.D.O. observed that there was Chapter case against the Applicant however, here he forgot to see the said Chapter case was already closed on 05.08.2016. The Applicant has enclosed closure order on Page 43 of P.B. Thus, the conclusion recorded by S.D.O. are legally and factually incorrect and it does not render the Applicant ineligible for the post of Police Patil. The observation made by S.D.O. that the Applicant has given wrong information is very vague and what information was wrong is not made clear. In Affidavit he made a statement that he is not in private or Government / Semi Government service nor doing any fulltime job. It is no way the case of Respondents that the Applicant was doing fulltime service or job or not available to the villagers. Engagement in plying mini rickshaw for his livelihood cannot be termed disqualification or ineligible for the post of Police Patil.

17. In this view of the matter, I have no hesitation to conclude that Respondent S.D.O. misdirected himself and came to the wrong conclusion of dismissal of the Applicant from the post of Police Patil. The impugned order is thus bad in law and liable to be quashed. He is liable to be reinstated on the post of Police Patil. Hence, the Order.

ORDER

- A) The Original Application is allowed.
- B) The impugned order dated 07.09.2019 is quashed and set aside.
- C) The Applicant be reappointed to the post of Police Patil of Village Sarve, Tahalisdar - Shrivardhan, Dist. - Raigad initially for five years subject to further terms and conditions of Maharashtra Village Police Patils (Recruitment, Pay, Allowances and Other Conditions of Service) Order, 1968.

- D) Respondent No.1 is directed to issue the appointment order accordingly within a month from today.

Sd/-
(A.P. Kurhekar)
Member (J)

Place: Mumbai
Date: 15.12.2022
Dictation taken by: N.M. Naik.

Uploaded on: _____

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