

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.70 OF 2022

**DISTRICT: KOLHAPUR
SUBJECT: POLICE PATIL
APPOINTMENT**

Jabbar Chandso Naikwade,)
Age: 35, Occu.: Agriculture,)
R/o. Ingali, Taluka: Hatankangale.)
Dist.: Kolhapur, 416202.)... **Applicant**

Versus

- 1) State of Maharashtra,)
Through the, Principal Secretary of)
Home Department,)
Mantralaya, Mumbai.)
- 2) Divisional Commissioner,)
Pune Division, Council Hall)
Camp Pune 1.)
- 3) Collector,)
Kolhapur, District Collector Office,)
Nagala Park, Kolhapur.)
- 4) Sub – Divisional Officer,)
Ichalkaranji Sub Division - Ichalkaranji,)
Taluka: Hatankangale, Dist: Kolhapur.)... **Respondents**

Shri Dhairyasheel V. Sutar, learned Advocate for the Applicant.

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

CORAM : A.P. Kurhekar, Member (J)

DATE : 23.02.2022.

ORDER

1. Heard at the stage of admission.
2. The Applicant has challenged order dated 20.11.2020 and 21.12.2021 issued by Respondent No.4 – Sub Divisional Officer (SDO), Ichalkaranji, Taluka: Hatankangale, Dist.: Kolhapur and also sought direction for his appointment as Police Patil of Village Ingali, Taluka: Hatankangale, Dist.: Kolhapur.
3. Briefly stated facts giving rise to O.A. are as under:-

Respondent No.4 - Sub Divisional Officer, Ichalkaranji had published advertisement on 02.01.2016 to fill in the post of Police Patil of Village Ingali, Taluka: Hatankangale, Dist.: Kolhapur. The Applicant and one Shri. Javed Y. Mullani amongst others participated in the recruitment process. In merit list Shri. Javed Y. Mullani was first in rank and the Applicant was second. The Sub Divisional Officer therefore appointed Shri. Javed Y. Mullani as Police Patil of Village Ingali by order dated 06.01.2017. Thereafter the Applicant made complaint with the Sub Divisional Officer *inter-alia* contending that the Shri. Javed Y. Mullani was serving as Clerk in Amardeep Co-operative Credit Society in which he was also one of the Member. There were also some other complaints about performance of Shri. Javed Y. Mullani. He allegedly fail to perform his duties diligently. Therefore, the Sub Divisional Officer by order dated 29.12.2017 suspended the Shri. Javed Y. Mullani for one year invoking Section 9 of Maharashtra Village Police Patil Act, 1967. Being not satisfied with the order of suspension of Shri. Javed Y. Mullani, the Applicant filed Review Application before the Sub Divisional Officer but it was rejected. The Applicant again approached Respondent 2 – Divisional Commissioner by filing appeal. However, Respondent 2 – Divisional Commissioner by order dated 01.12.2018 directed the Sub Divisional Officer to take appropriate action. After expiration of one year period of suspension S.D.O. again appointed Shri. Javed Y. Mullani on the post of Police Patil despite the objection raised by the Applicant by order dated 17.06.2019. Thereafter, again on complaint the Sub

Divisional Officer conducted enquiry and imposed punishment of fine of one month remuneration in terms of Section 9 (c) of Maharashtra Village Police Patil Act, 1967. By order dated 20.11.2020. Then again the Applicant approached Respondent No.2 - Divisional Commissioner by filing appeal on various grounds. It was dismissed being found not maintainable. Later in view of various fresh complaints against Shri. Javed Y. Mullani, Respondent No.4 - Sub Divisional Officer conducted enquiry and found him incompetent to discharge duties of Police Patil. Ultimately, the Sub Divisional Officer by order dated 10.08.2021 removed Shri. Javed Y. Mullani from service of Police Patil in terms of Section 9 (e) of Maharashtra Village Police Patil Act, 1967.

4. It is on this background the Applicant again approached the Sub Divisional Officer for appointment to the post of Police Patil on the ground that he was 2nd in merit list, and therefore after removal of Shri. Javed Y. Mullani he be appointed as Police Patil of Village Ingali. However, the Sub Divisional Officer by order dated 21.12.2021 rejected his Application stating that now the period of more than 5 years from the date of recruitment process is over and a fresh recruitment process will have to be initiated to fill in the said post and the Applicant can participate in the said process.

5. Leaned Advocate for the Applicant sought to contend that his client being 2nd in list is required to be appointed as Police Patil and there is no need to have a fresh recruitment process.

6. Per contra, learned P.O. has pointed out that in terms of G.R. dated 22.08.2014 issued by Home Department, validity of Waiting / Select list is only one year, and after one year it lapse. He therefore submits that the Applicant has no right to ask for appointment on the post of Police Patil. In this behalf he referred to decision rendered by this Tribunal in O.A. No.426/2017, Shri Sudhakar E. Patil v/s. State of

Maharashtra & 2 Ors., decided by Maharashtra Administrative Tribunal Mumbai Bench at Aurangabad on 17.04.2018.

7. Undisputedly, recruitment process was initiated in 2016, wherein Shri Javed Y. Mullani was appointed on the post of Police Patil and he worked on the said post. He was finally removed from the post of Police Patil by order dated 10.08.2021. As such, there is no denying that recruitment process of 2016 had come to an end. As rightly pointed out by learned P.O. Validity of Waiting / Select list for the post of Police Patil could be one year as specifically provided in G.R. dated 22.08.2014. Now, period of more than 5 years is over from the recruitment process and Waiting / Select list had lapsed. Therefore, the Applicant has no right to ask for appointment on the post of Police Patil. Now, recruitment process to fill in the post of Police Patil would be initiated afresh since vacancy has arisen recently.

8. It is only in a case Waiting / Select list is valid and issue arises immediately after appointment of candidate who is at Sr. No.1 and for some or other reasons his candidature is cancelled or revoked in that event only candidate who is at Sr.2 can ask for appointment on the post of Police Patil. However, in present case it is not so. Shri Javed Y. Mullani was at Sr. No.1 and worked on the post of Police Patil for 3/4 years and he is dismissed from the post of Police Patil having found that he failed to discharge his duties diligently.

9. Indeed, as fairly stated by learned Advocate for the Applicant that the appointment of Shri Javed Y. Mullani on the post of Police Patil was for 5 years. He was appointed by order dated 06.01.2017. Now, admittedly 5 years time which was given to him in appointment order has come to an end. This being the factual position the Applicant has no right whatsoever to ask for appointment on the post of Police Patil. Recruitment process of 2016 as well as the term of Shri Javed Y. Mullani has already come to an end.

10. In view of above, I have no hesitation to conclude that O.A. is not maintainable and liable to be dismissed.

11. Accordingly, O.A. is dismissed summarily with no order as to costs.

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

Place: Mumbai
Date: 23.02.2022
Dictation taken by: N.M. Naik.