

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.130 OF 2020**

**DISTRICT : PUNE**

Shri Sadashiv Vinayak Sonar )  
Aged 43 years, Occ. Agriculturist )  
R/at Kusgaon(Bk), Tal. Maval, Dist. Pune. )...**Applicant**

**Versus**

1. The State of Maharashtra. )  
Through the Secretary )  
Home Department, )  
Mantralaya, Mumbai 400 032. )
2. The Sub Divisonal Officer, Maval. Mulshi )  
Sub Division, Pune,O/at New Admn.Build.)  
2<sup>nd</sup> floor, opposite Vidhan Bhawan, Pune. )
3. Kisan Mahadu Gund, R/at. Kusgaon (Bk) )  
Taluka : Maval, Dist. Pune. )....**Respondents**

**Shri L. S. Deshmukh, Advocate for Applicant.**

**Smt. Kranti Gaikwad, learned Presenting Officer for Respondents.**

**Shri Sachin Pawar, learned Advocate for the Respondent No.3.**

**CORAM : A.P. KURHEKAR, MEMBER-J**

**DATE : 08.01.2021**

**JUDGMENT**

The Applicant has challenged the order dated 20.06.2019 whereby his appointment to the post of Police Patil of village Kusgaon, Tal. Maval, District Pune has been cancelled by the Respondent No.2 – S.D.O., Maval-Mulshi Sub Division., Dist. Pune invoking the jurisdiction of this Tribunal under Section 19 of the Tribunal Act, 1985.

2. Shortly stated undisputed facts giving rise to the Original Application are as under :-

(a) Respondent No.2 - S.D.O. had issued advertisement dated 07.06.2017 inviting applications to fill in the post of Police Patil of village Kusgaon, Tal. Maval, Dist. Pune and one of the condition vide condition No.6 was that on the date of advertisement, the candidate should not have been Director or Member of a Co-operative Society.

(b) In pursuance of advertisement, the Applicant as well as Respondent No.3 amongst other participated in the process of selection of Police Patil.

(c) In process, the Applicant got highest marks and the Respondent No.3 was second in merit.

(d) Since the Applicant stood first, he was appointed as Police Patil of village Kusgaon by order dated 01.01.2018 and since then he resumed charge.

(e) Respondent No.3 – Kisan M. Gund had filed O.A.No.801/2018 before this Tribunal challenging appointment of Applicant on the post of Police Patil on the ground that he was not eligible for appointment to the post of Police Patil in as much as he was Director and Member of Vividh Karyakari Sahakari Society Maryadit, Kusgaon and simultaneously also filed complaint with S.D.O.

(f) O.A.No.801/2018 was disposed of by this Tribunal on 25.03.2019 with directions to the S.D.O. to consider the objection raised by the Respondent No.3 and to pass further appropriate order about eligibility of the Applicant to the post of Police Patil.

(g) Consequent to direction given by this Tribunal, the Respondent No.2 –S.D.O. hold inquiry, called explanation of the Applicant and passed order on 20.06.2019 thereby cancelling the appointment of the Applicant.

(h) Being aggrieved by it, the Applicant had filed appeal before Divisional Commissioner, Pune which was dismissed on 30.12.2019.

3. It is on the above background, the Applicant had again challenged the order dated 20.06.2019 in the present O.A.

4. Shri L.S. Deshmukh, learned Counsel for the Applicant sought to challenge the order dated 20.06.2019 mainly on the following grounds:-

(i) The condition in advertisement dated 07.06.2017 that candidate should not be Director or Member of the Co-operative Society on the date of advertisement, is illegal since it is not supported by Maharashtra Village Police Patils (Recruitment, Pay, Allowances and Other Conditions of Service) Order, 1968 (hereinafter referred to as 'Recruitment Order 1968' for brevity)

(ii) As the Applicant fulfilled eligibility criteria stipulated in Clause - 3 of Police Patil Recruitment Order 1968, the condition No.6 set out in the advertisement that candidate should not be Director/Member of the Co-operative Society being illegal it could not have been resorted to for denial of appointment.

(iii) Since, the Respondent No.2-S.D.O. had once appointed the Applicant by order dated 01.01.2018, he had no jurisdiction to cancel or review his own order, and therefore, the order dated 20.06.2019 cancelling appointment of the Applicant to the post of Police Patil of Kusgaon is illegal.

5. Per contra, Smt. Kranti Gaikwad, learned Counsel for the Respondent Nos.1 & 2 and Shri S. R. Pawar, learned Counsel for the Respondent No.3 supported the impugned order contending that in view of specific condition No.6 in the advertisement, the Applicant was not at all eligible to participate in the process of selection of Police Patil. It is further pointed out that G.R. dated 07.09.1999 issued by Home Department, State of Maharashtra empowered Sub-Division officer to review his own order if subsequently same is found incorrect.

6. Indisputably, the Applicant was Member and Chairman of Vividh Karyakari Sahakari Society Maryadit, Kusgaon. According to him, he had submitted resignation to the post of Director/Chairman of Society by tendering resignation on 05.06.2017 and the same was accepted in the meeting of managing committee on 15.12.2017. As seen from the proceeding book which is at Page Nos.111 and 112 of PB, it is explicit that on the date of advertisement i.e. on 07.06.2017 there was no acceptance of his resignation. His resignation from the post of Chairman/Director has been accepted in the meeting of managing committee on 15.12.2017. As such, it is in contravention of the condition No.6 of advertisement.

7. Significant to note that the Applicant had resigned from the post of Chairman/Director and he had not resigned from primary membership of the society. Learned Counsel for the Applicant fairly concedes that the resignation was restricted to the post of Director/Chairman and his client is still Member of the society. This being the position, he is certainly not eligible for appointment to the post of Police Patil in the face of condition No.6 of the advertisement.

8. Apart, what transpires in the inquiry conducted by S.D.O. is interesting. Before S.D.O., the Applicant submitted his explanation which is at page No.58 of PB. The explanation submitted by the Applicant is rather very interesting. He stated that he had tendered resignation from the post of Chairman/Director on 05.06.2017 but before submitting resignation, he had signed agenda papers in advance so that due to his non availability, functioning of society should not be obstructed. According to him, the Secretary of society used those papers for issuance notices of the meeting dated 15.12.2017. It is on this background, Respondent No.2 –S.D.O. in his order observed that the Applicant still continues to be Director of Vividh Karyakari Sahakari Society Maryadit, Kusgaon and thereby committed breach of condition No.6 of the advertisement. He rejected explanation of the Applicant that he had not participated in the

proceeding of the society after submitting resignation. Indeed, this explanation that Applicant had signed blank agenda papers and it was misused by society does not stand to reason. No affidavit of Secretary is filed in support of his theory that he had signed blank agenda papers and the Secretary used it inadvertently.

9. As stated above, the resignation submitted by the Applicant was of the post of Director/Chairman of Vividh Karyakari Sahakari Society Maryadit, Kusgaon and not from the primary membership of the society. This being the position, it is clear in contravention of condition No.6 and the Applicant cannot be said legible for appointment to the post of Police Patil.

10. True, in Police Patil Appointment Order 1968, there is no such clause or criteria that the candidate should not be the Member of Co-operative Society. Clause 3 of Police Patil Appointment Order 1968 pertains to other eligibility criteria namely age, education, residence, physical fitness etc. It is on this background, learned Counsel for the Applicant vehemently urged that in absence of any such eligibility criteria in Police Patil Recruitment Order 1968, the condition incorporated in advertisement has no force in law. According to him as the Applicant has fulfilled the eligibility criteria in term of Clause No.3 of Police Patil Recruitment Order, 1968, denial of appointment or cancellation of appointment on the basis of breach of condition No.6 of advertisement is illegal. I find no merit in his submission.

11. The Police Patil Recruitment Order 1968 pertains to primary eligibility for the post of Police Patil. Subsequently, the Government by G.R. dated 07.09.1999 (Page Nos.74 to 77 of PB) incorporated certain more conditions and one of the condition is that in view of Rule No.5 of Maharashtra Civil Services (Conduct) Rules 1979 – Police Patil should not participate in politics and should not participate State Assembly election or local election. It is on the above background, while issuing advertisement for the post of Police Patil

invariably, the S.D.O. set out certain conditions and condition No.6 is to the effect that candidate should not be the Member / Director of Co-operative Society on the date of issuance of advertisement. Police Patil is entrusted with several duties as defined in Maharashtra Police Act and supposed to be link between village and police. He needs to inform whatever inputs or information he get about law and order situation of village to police so that no such intowered incident should happen. He is required to help police to maintain law and order in village. It is from this angle conditions are always set out in the advertisement that candidate should not be the Member of Co-operative Society on the date of advertisement. If the person is Member of society where he is elected by way of election then there are chances of partial functioning of Police Patil and to avoid any such situation, the condition No.6 is set out in the advertisement so that he should not be part of local politics of village and should function in fair manner.

12. Indeed, the Applicant participated in this election process in pursuance of advertisement dated 07.07.2017 knowing fully well that person should not be the Member of Co-operative society and in fact tendered resignation on 07.07.2017. This being the position, now he cannot challenge condition No.6 of the advertisement and he is estopped from challenging the same. Indeed, the Applicant had not challenged the legality of notification of advertisement dated 07.07.2017 nor there is any relief to that effect in O.A.

13. Reliance placed by the learned Counsel for the Applicant on the decision of Hon'ble Supreme Court in **2016 (16) SCC 95 Raminder Singh V/s State of Punjab & Another** and **(2018) 3 SCC 55 Ashish Kumar V/s State of Uttar Pradesh** is totally misplaced. In **Raminder Singh' s** case (cited supra) there was issue of eligibility for promotion. The promotion of the candidate was cancelled on the ground that he did not fulfill requisite qualification and experience in accordance to rules. However, the Hon'ble Supreme Court held that

the candidate had fulfilled necessary criteria prescribed in Rules and cancellation of promotion was incorrect. In so far as **Ashish Kumar's** case is concerned, in that case it has been held that in case of variance in advertisement and statutory rules, it is the statutory rules which would prevail. In the present case, there is no such variance. The condition No.6 is incorporated with object that person should work in transparent manner impartially without being affiliated to local politics. The Applicant participated in the process and has tendered resignation but subsequently it was transpired that he was actually working as Chairman of Vividh Karyakari Sahakari Society Maryadit, Kusgaon. Apart he still continues to be member of the said society which itself render him not eligible.

14. In so far as powers of review of Respondent No.2 –S.D.O. is concerned, as stated above, the Government by G.R. dated 07.09.1999 had empowered S.D.O. to exercise the power of review considering that his function is *quasi judicial* in the matter of appointment in Police Patil. The challenge on this score therefore holds no water. Indeed, in view of directions given by this Tribunal in O.A.No.801/2018, the S.D.O. conducted inquiry and having noticed that there is breach of condition No.6 rightly cancelled the appointment of the Applicant.

15. In view of above, I see no illegality in the impugned order and O.A. is devoid of merit. Hence the following order :-

**ORDER**

Original Application is dismissed with no order as to costs.

Sd/-

**(A.P. KURHEKAR)**  
**Member-J**

