

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.139 OF 2020

DISTRICT : Pune

Karan Ashok Bhosale,)
Age : 29 years, Occ. Agri,)
R/at Pangri, Tal. Khed, Dist.Pune.)...**Applicant**

Versus

1. State of Maharashtra, through the)
Principal Secretary of Dept. of Home)
Mantralaya, Mumbai.)
2. Collector, Pune O/at. Collector)
Office, Camp, Pune -1.)
3. Sub Divisional Officer, Rajgurunagar)
Tal. Khed, Dist. Pune.)
4. Tahasildar, Rajgurunagar, Tal. Khed)
Dist. Pune.)
5. Ravindra Khandu Bhosale, Age : 39)
Occ : Agri., R/o. Pangri, Tal. Khed,)
Dist. Pune.).....**Respondents**

Shri D. V. Sutar, Advocate for Applicant.

Smt. Archana B.K., Presenting Officer for Respondents.

Smt. P.B. Walimbe, learned Counsel for Respondent No.5.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 24.08.2021

JUDGMENT

In this second round of litigation, the Applicant has again challenged the order dated 17.12.2019, and 24.12.2019 whereby the

Respondent No.3-S.D.O., Khed revoked the suspension of Respondent No.5 and reappointed him on the post of Police of Village Pangari, Tal. Khed, Dist. Pune.

2. Initially Original Application No.254/2018 was filed by the same Applicant challenging the appointment of Respondent No.5 on the post of Police Patil of Village Pangari, Tal. Khed, Dist. Pune on the ground that he has suppressed the material fact of registration of crime against him and was not eligible for the appointment on the post of Police Patil.

3. The Respondent No.3- S.D.O. Pune had issued Notification inviting applications for the post of Police Patil on 08.06.2017. In pursuance of which, the Respondent No.5 participated in the process. He came to be appointed as Police Patil as per order dated 18.01.2018 and on the same day by another order he kept the Applicant under suspension invoking Section 11 of Maharashtra Village Police Patil Act, 1967.

4. O.A. No.254/2018 was heard on merit with following order:-

“ORDER

(A) *Original Application is allowed partly.*

(B) *Respondent No.3 S.D.O. is directed to take further steps in the matter of suspension of Respondent No.5 by order dated 18.01.2018 and shall pass final order about eligibility of Respondent No.5 to the post of Police Patil of Village Pangari in accordance to rules after giving opportunity to the parties within six weeks from today.*

(C) *Learned P.O. is directed to communicate this order to S.D.O. immediately for necessary compliance.*

(D) *No order as to costs.”*

5. In pursuance of the aforesaid order of the Tribunal, the Respondent No.3 –S.D.O. took hearing and after giving opportunity to

the parties again passed orders whereby he reinstated the Applicant as Police Patil revoking the suspension and reappointed him on the post of Police Patil.

6. Shri D.V. Sutar, learned Counsel for the Applicant sought to contend that in terms of order passed by the Tribunal on 23.09.2019, the S.D.O. was required to examine the eligibility of the Respondent No.5 for the post of Police Patil but instead of doing so, he mechanically revoked the suspension and reappointed the Applicant on the post of Police Patil. According to him since the Applicant has suppressed the fact of registration of crime against him while applying for the post of Police Patil, he is not eligible and suitable for work of the Police Patil. He, therefore, submits that the impugned order is outcome of non application of mind and matter be again remanded to S.D.O. for decision afresh after considering eligibility of the Respondent No.5.

7. Per contra, Smt. Archana B. K., learned Presenting Officer for the Respondents and Smt P. B. Walimbe, learned Counsel for the Respondent No.5 supported the impugned order and pointed out that registration of crime is no bar for selection on the post of Police Patil. They, further submits that in terms of the decision of the Tribunal, the S.D.O. gave hearing to the parties and rightly passed the order of revocation of suspension and reappointment of Respondent No.5 on the post of Police Patil.

8. In view of submission advanced at bar and provisions of 'Order 1968' the question falls for consideration is whether the impugned order passed by the S.D.O. revoking suspension and reappointment of Respondent No.5 on the post of Police Patil needs any interference and the answer is in negative.

9. Perusal of record reveals that in pursuance of Notification issued by S.D.O., the Respondent No.5 came to be appointed as Police Patil on 18.01.2018. However, on the same day, the S.D.O. suspended him in view of registration of crime against him which was not allegedly suppressed by the Respondent No.5 during the process of selection of Police Patil. Be that as it may, the question is whether the Respondent No.5 was eligible for appointment to the post of Police Patil in terms of Maharashtra Village Police Patil (Recruitment, Pay and Allowances & Other Conditions of Services) Order, 1968 (hereinafter referred to as 'Order 1968' for brevity).

10. Clause -3 of the 'Order 1968' is as under :-

"3. Eligibility for appointment – No person shall be eligible for being appointed as a Police Patil who

(a) Is under twenty five years or over forty five years of age at the time of appointment,

(b) Has not passed the VI standard examination in a primary school or who does not possess equivalent or Higher educational qualification.

Provided that, when no suitable candidates with this minimum qualification are available, the competent authority may appoint a candidate who has passed at least the IV standard examination in a primary school,

(c) Is not a resident of the village concerned.

(d) Is physically unfit to perform the duties of a Police Patil,

Provided that, the candidate may be required by the competent authority to undergo medical examination to determine his physical fitness, if deemed necessary.

(e) Is adjudged by the competent authority after a summary inquiry to be of bad character or has, in the opinion of that authority, such antecedents as render unsuitable for employment as Police Patil.

11. Furthermore, it would be apposite to see the conditions mentioned in Notification dated 08.06.2017 and eligibility criteria for the post of Police Patil which are as under:-

“अटी व शर्ती

- १) अर्ज करणा-या व्यक्तीचे वय दि.०८.०६.२०१७ रोजी २५ वर्षांपेक्षा कमी व ४५ वर्षांपेक्षा जास्त नसावे.
- २) अर्ज करणारी व्यक्तीची शैक्षणिक पात्रता ही इयत्ता १० वी उत्तीर्ण असावी. (शासन निर्णय दि.२६ ऑगस्ट २०१०)
- ३) अर्जदार व्यक्ती त्याच गावचा स्थानिक रहिवासी असावा. त्याचे मालकीचे /वडीलोपार्जित जमिन किंवा घर त्या गावी असावे.
- ४) अर्जदार व्यक्ती पोलीस पाटील पदाची कर्तव्य बजावण्यास शारीरिक दृष्ट्या सक्षम असावा.
- ५) अर्जदार व्यक्तीस कोणत्याही गुन्ह्यात कोणत्याही प्रकारचा दंड अगर शिक्षा झालेली नसावी.
- ६) अर्जदार हा जाहिरनाम्याच्या दिनांकास शासकीय नोकर/निमशासकीय/सहकारी संस्थेचा संचालक/सदस्य अथवा पदाधिकारी नसावा.
- ७) अर्जदार व्यक्ती सरकारी थकबाकीदार नसावी.
- ८) अर्जदार व्यक्तीस वर नमुद केलेल्या पात्रतेबरोबरच निवडीकरीता इयत्ता १० वी पर्यंतच्या अभ्यासक्रमावर आधारित ८० गुणाची लेखी परिक्षा (वस्तुनिष्ठ बहूपर्यायी)घेणेत येईल. यामध्ये मराठी, इंग्रजी या विषयांसह सामान्य ज्ञान, गणित, स्थानिक परिसराची माहिती व चालु घडामोडीचा समावेश असेल.”

12. Thus, perusal of Clause-3 of ‘Order 1968’ and conditions mentioned in Notification does not reveal that registration of criminal offence is disqualification to appear in the recruitment process for the post of Police Patil. Indeed, as per Clause-5 of Notification dated 08.06.2017, disqualification occurs in the event of conviction in criminal offence. Suffice to say, there is no such disqualification on the ground of registration of crime.

13. Apart, perusal of FIR registered against the Respondent No.5 and 19 others on 10.11.2009 reveals that it was offence registered on account of political agitation and dharane by twenty persons as

protest for not taking their leader in State Cabinet Ministry. Those twenty persons contravened prohibitory order issued by the Collector under Section 135 of Maharashtra Police Act and it is in that context offence under Section 143, 147, 341, 188 of IPC and u/s 135 of Maharashtra Police Act came to be registered. As such, it was a case of political agitation and not of any serious offence in individual capacity. Be that as it may, the registration of crime cannot be considered as disqualification.

14. Apart, after remand, the S.D.O. had called the report from police wherein it is stated that except registration of the said crime in 2009, no other case is pending against him and the police opined for the appointment for Respondent No.5 as criminal case is still pending.

15. It is thus quite clear that since the Respondent No.5 have had undergone the suspension for long period, the S.D.O. thought it appropriate to revoke the suspension and reappointed the Respondent No.5 on the post of Police Patil.

16. In view of above, the submission advanced by learned Counsel for the Applicant that Respondent No.5 was not eligible for appointment to the post of Police Patil is devoid of merit and the impugned order needs no interference. Hence the following order :-

ORDER

Original Application is dismissed with no order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J