

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.154 OF 2019**

**DISTRICT : Pune**

Smt. Sandhya Navnath Pingale ,         )  
Age : 32 years, Occ.Household,         )  
R/at Pingale Wasti,                         )  
Taluka : Baramati, Dist. Pune.         )**...Applicant**

**Versus**

1. Sub Divisional Officer of Baramati,     )  
Tal : Baramati, Dist. Pune.                 )
2. Smt. Rupali Hanumant Pingale,         )  
Age : 36 years, Occ : service,             )  
R/at Pingale Wasti, Tal. Baramati,         )  
Dist. Pune.                                     )**.....Respondents**

**Shri B. S. Shinde , Advocate for Applicant.**

**Ms N. G. Gohad, Presenting Officer for Respondent No.1.**

**Respondent No.2 though served but absent.**

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

**DATE                             :   06.04.2021**

**JUDGMENT**

The Applicant has challenged the order dated 09.01.2018 whereby the Respondent No.1 –S.D.O. has appointed Respondent No.2 Smt. Rupali H.Pingale as Police Patil of village Pingale Wasti, Tal.Baramati, District Pune and also sought direction for his appointment on the post of Police Patil invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

The Applicant- Smt. Sandhya N. Pingale and Respondent No.2- Smt. Rupali H. Pingale have applied for the post of Police Patil of village Pingale Wasti in view of the Notification issued by Respondent No.1-S.D.O. As per Notification dated 09.01.2018, one of the conditions (Condition No.8) was that person appointed on the post of Police Patil should not engage himself/herself in any kind of service with Government / Semi Government or Private and should not participate in politics and if committed breach, the appointment would be cancelled automatically. In recruitment process, the Applicant and Respondent No.2 got equal marks i.e. 75-75. Therefore, Respondent No.1-S.D.O. by letter dated 12.12.2017, asked the Applicant as well as Respondent No.2 to remain present for hearing with documents on 21.12.2017. In response to it, the Applicant filed objection with S.D.O. on 15.12.2017 stating that Respondent No.2 is full time teacher with Shri Vitthal Madhyamik and Kanistha Mahavidhyalaya Bhikobanagar, Pandhare, Taluka:Baramati, Dist. Pune, and therefore, not eligible for appointment to the post of Police Patil. However, Respondent No.1 -S.D.O. did not pay any heed to the same. The Respondent No.1 ignoring the objection raised by the Applicant and issued appointment order dated 09.01.2018 in favour of the Respondent No.2. Later, the Applicant again lodged objection on 26.06.2018 but in vain. In the meantime, the Collector, Pune by his letters dated 28.09.2018 and 25.10.2018 informed the Applicant that she should approach to the S.D.O. and the copy of same was also forwarded to the S.D.O. Despite this position, Respondent No.1 - S.D.O. turned blind eye and did not take any action. The Applicant has also secured information under RTI which discloses that Respondent No.2 is in service in the school from 2012 on regular basis. It is on this background, the Applicant has filed present

Original Application to set aside the appointment order in favour of the Respondent No.2 and for direction to S.D.O. to appoint her as Police Patil of village Pingale Wasti, Tal. Baramati, Dist. Pune.

3. The Respondent No.1 has filed Affidavit-in-Reply surprisingly admitting that the Respondent No.2 is working as a teacher but sought to justify the appointment order stating that she is not doing service at village Pingale Wasti for which appointment of Police Patil is made. In reply, it is further stated that the Respondent No.2 has already submitted her resignation from the post of Police Patil on 15.11.2018, and therefore, challenge to the appointment order dated 09.01.2018 does not survive.

4. Heard Shri B.S. Shinde, learned Counsel for the Applicant and Ms N.G.Gohad, learned Presenting Officer for the Respondent No.1.

5. In view of the reply filed by S.D.O. it is admitted position that at the time of filing of application for the post of Police Patil as well as at the time of issuance of appointment order, the Respondent No.2 was serving as a full time teacher at village Pandhare. Indeed, the Respondent No.2 had already resigned from the post of Police Patil on 15.11.2018. Consequently, the appointment of Respondent No.2 to the post of Police Patil has come to an end and Respondent No.1-S.D.O. ought to have taken further steps to appoint the Applicant as Police Patil of village Pingale Wasti. However, he is simply sitting over the matter without taking any appropriate steps.

6. Indeed, what Applicant has lodged objection by letter dated 15.12.2017 that the Respondent No.2 is full time teacher at village Pandhare, the S.D.O. ought to have taken cognizance of it and ought to have initiated inquiry before issuance of appointment order in favour of the Respondent No.2. However, he did nothing and mechanically appointed Respondent No.2 by order dated 09.01.2018

without bothering to see that Respondent No.2 is not eligible for appointment since she is full time teacher at village Pandhare which is in contravention of condition no.8 of Notification.

7. Later, the Respondent No.2 resigned from the post of Police Patil on 15.11.2018. Even if, she resigned on 15.11.2018, the fact remains that at the time of appointment itself, she was not eligible for appointment to the post of Police Patil in view of admitted position that she was full time teacher at Pandhare. Suffice to say, the appointment order itself was illegal.

8. The recruitment and appointment of Police Patil is governed by Maharashtra Village Police Patil (Recruitment, Pay and Allowances & Other Conditions of Services) Order, 1968 (hereinafter referred to as 'Order 1968' for brevity), wherein Clause No.8 is as under:-

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

9. As such, it is explicit that Police Patil can only cultivate land or engaged in local business or trade in the village, in such manner as is not detrimental to the performance of his duties as Police Patil and he shall not undertake any full-time occupation elsewhere. Thus, all that permissible is part-time cultivation of land or local business. The Respondent No.2 was admittedly full-time teacher at village Pandhare and consequently not eligible for appointment to the post of Police Patil. Suffice to say, the order dated 09.01.2018 appointed her as Police Patil of village Pingale Wasti is totally bad in law.

10. As stated above, subsequently, the Respondent No.2 had tendered her resignation on 15.11.2018. Therefore, at least after her resignation, the S.D.O. was bound to take further steps to appoint the Applicant to the post of Police Patil since she was second in the merit, in the process of Recruitment. Regret to note that the S.D.O. did not take any such steps and thereby abdicated his duties which are required to perform under the law. There is total negligence as well as ignorance of law on the part of S.D.O. Had he taken appropriate steps in accordance to law, this litigation would have been avoided.

11. The Applicant has been constrained to file Original Application to redress her grievance because of total negligence and inaction on the part of Respondent No.1-S.D.O. Original Application is, therefore, deserves to be allowed with cost. Hence the following order:-

**ORDER**

- (A) Original Application is allowed.
- (B) The order dated 09.01.2012/2018 issued by S.D.O. appointed Respondent No.2 as Police Patil of village Pingale Wasti is declared bad in law and unsustainable.
- (C) The Respondent No.1-S.D.O. is directed to take further appropriate steps to appoint the Applicant as Police Patil of village Pingale Wasti, if she is otherwise eligible within a month from today.
- (D) The cost of Rs.10,000/- is imposed upon the Respondent No.1. It be paid to the Applicant.

**Sd/-**

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