

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.407 OF 2018**

**DISTRICT : PUNE**

Smt. Chhaya Vinayak Ghare. )  
Age : 32 Yrs., Occu. Household, )  
Residing at At/Post : Yelghol, Tal.: Maval, )  
District : Pune. )...Applicant

**Versus**

1. The State of Maharashtra. )  
Through Principal Secretary, )  
Home Department, Mantralaya, )  
Mumbai - 400 032. )
2. The District Collector. )  
Pune, Having office at New Collector's )  
Office Building, Opp. Sassoon Hospital, )  
Station Road, Pune – 411 011. )
3. The Sub Divisional Magistrate and )  
Sub Divisional Officer, New Administrative )  
Building, 2<sup>nd</sup> Floor, Opp. to Vidhan )  
Bhavan, Pune. )
4. Smt. Anjana R. Kadam. )  
Age : 37 Yrs., Occu.: Household, )  
R/o. Yelghol, Tal.: Maval, Dist : Pune. )...Respondents

**Mr. P.S. Bhavake, Advocate for Applicant.**

**Mr. A.B. Kololgi, Presenting Officer for Respondents 1 to 3.**

**Mr. A.S. Shalgaonkar, Advocate for Respondent No.4.**

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

**DATE** : **10.04.2019**

**JUDGMENT**

1. In the present Original Application, the disgruntled Applicant has challenged the appointment of Police Patil of Respondent No.4 invoking Section 19 of Administrative Tribunals Act, 1985.

2. Shortly stated facts giving rise to this application are as follows :

The Respondent No.3 – Sub Divisional Officer, Maval Mulshi Sub-Division, District Pune had published Proclamation on 07.06.2017 inviting applications to fill-in the various posts of Police Patil. Accordingly, the Applicant as well as Respondent No.4 had applied for the post of Police Patil of Village Yelghol, Tal. : Maval, District Pune, which was reserved for category ‘Female OBC’. Accordingly, the Respondent No.3 completed the process, wherein the Applicant had secured highest marks. She was accordingly appointed to the post of Police Patil by order dated 01.03.2008.

3. The Applicant has challenged the appointment of Respondent No.4 on the post of Police Patil of Village Yelghol on the following grounds :-

- (i) The Respondent No.4 has not passed 10<sup>th</sup> Standard Examination, which was minimum requirement as per Proclamation.
- (ii) The Respondent No.4 was Member/Director of Co-operative Society.
- (iii) The Respondent No.4 was affiliated to political party.

4. The Applicant raised objection by filing complaint before S.D.O. on 05.12.2007. However, the Respondent No.3 rejected the objection by order

dated 20.12.2017 and later by order dated 01.03.2018 appointed Respondent No.4 as Police Patil.

5. Shri P.S. Bhavake, learned Advocate for the Applicant sought to contend that as per Proclamation dated 07.06.2017, the Respondent No.4 should not have been associated to any political party or Member/Director of Co-operative Society on the date of issuance of Proclamation i.e. 07.06.2017. Thus, according to him, the Respondent No.4 must have been eligible to hold the post of Police Patil on the date of publication of Proclamation itself. He, therefore, sought to contend that the Respondent No.4 is not eligible to hold the post of Police Patil and prayed to set aside the appointment of Respondent No.4 and to declare the Applicant as Police Patil of Village Yelghol, having secured highest marks next to Respondent No.4.

6. Per contra, Shri Shalgaonkar, learned Advocate for Respondent No.4 as well as Smt. A.B. Kololgi, learned Presenting Officer for Respondents 1 to 3 pointed out that there is no illegality in the appointment order of Respondent No.4 by order dated 01.03.2018 as Respondent No.4 was having required minimum qualification and also fulfilled the eligibility criteria on the date of issuance of appointment order.

7. As regard educational qualification as per Proclamation, the candidate must have passed minimum 10<sup>th</sup> Standard Examination. Whereas, in the present case, the Applicant is Bachelor of Arts from Yashwantrao Chavan Open University. He has produced Certificate to that effect (Page No.92-D of Paper Book) which shows that she had completed B.A. in 2013. The Respondent No.4 has also produced the G.Rs. dated 10.12.2018 and 08.03.1995 whereby the Government has given equivalency to the degree and diploma obtained from Open University and those were declared acceptable for all purposes in service as

well as to fill-in the posts. The Respondents have also placed on record the letter issued by Government dated 02.01.2018 wherein again, it has been made clear that the degree obtained from regular Universities shall be treated equal to degree obtained from Open University. This being the position, there is no denying that the Applicant was having higher qualification than 10<sup>th</sup> Standard. Indeed, as per Proclamation, the candidate must have minimum 10<sup>th</sup> Standard passed or must have higher qualification than S.S.C. Therefore, the challenge to the appointment of Respondent No.4 on the ground that the Applicant was not holding minimum academic qualification is without substance.

8. As regard affiliation to National Congress Party, the Respondents have placed on record the Certificate issued by President of Maval Taluka Mahila Rashtravadi Congress Party dated 20.05.2016 (Page 105 of P.B.) which reveals that the Respondent No.4 was Vice-President of Taluka Unit of Rashtravadi Congress Party for the period from 2015 to 2016 only and after 2016, he is not holding any post in the said political organization. There is no rebuttal to this Certificate. All that, the Applicant sought to place reliance on one Certificate purportedly issued by Ganesh B. Dhore (Page 55 of P.B.). This is a photo-copy of Certificate without date. The Applicant has not filed Affidavit of Ganesh B. Dhore, who purportedly issued this Certificate, wherein it is stated that the Applicant is working as Vice-President of Taluka Unit. This document can hardly be accepted in view of Certificate dated 20.05.2016 produced by Respondent No.4.

9. In so far as the Membership of Pavana Krush Seva Sahakari Sanstha is concerned, the Respondents have produced the letter dated 18.12.2017 issued by the President of the said Society, wherein it is stated that the Respondent No.4 had submitted resignation of the post of Director on 08.12.2017 and the same was accepted in the meeting on 11.12.2017. As such, she was not holding

any post in Co-operative Society onward 11.12.2017. Whereas the appointment order has been issued on 01.03.2018.

10. Shri A.S. Shalgaonkar, learned Advocate for Respondent No.4 has rightly referred to the recent decision of Hon'ble Supreme Court in ***Civil Appeal No.2712/2019 arising from SLP No.21256 of 2018 (Gnyaneshwar B. Solunke vs. Divisional Commissioner, Aurangabad) decided on 11.03.2019***, which is the answer to the objections raised by the Applicant. In that matter also, the appointment on the post of Police Patil was challenged on similar grounds. The appointment on the post of Police Patil was set aside by M.A.T. on the ground that, on the date of filing of an application for the post of Police Patil, the said candidate was holding the post of Member of Gram Panchayat. The decision of MAT was confirmed in Writ Petition No.1419/2017 by Judgment dated 5<sup>th</sup> December, 2017. However, the matter was taken to Hon'ble Supreme Court and ultimately, the Hon'ble Supreme Court upheld the appointment on the post of Police Patil, having found that the said candidate had submitted his resignation before the date of appointment. Thus, the eligibility needs to be examined on the date of appointment on the post of Police Patil and not on the date of filling of application. Here, it would be apposite to reproduce Para Nos.13 and 14 of the Judgment, which are as follows :-

***“13.*** *The petition was filed before the Tribunal questioning the appointment of the appellant. On 28.03.2016, he had resigned from the service as Member of Grampanchayat, Amdabad and also as the Member of Zila Parishad School Managing Committee on 17.03.2016. He was appointed as Police Patil on 27.06.2016. In view of the instructions in paragraph 2 of the Circular dated 10.05.1983, which still holds the field, he ought to have resigned before he is appointed as Police Patil. He resigned before the appointment. Paragraph 2 of the aforementioned Circular is extracted hereunder :-*

*The Police Patil of a village is Governments resident representative in the village. Looking to his status, role and responsibilities he is not expected to involve himself in any political activity. In terms of Rule 5 of the Maharashtra Civil Services (Conduct) Rules, 1979 a Police Patil is precluded from taking part in politics or in an election to any legislature or local authority. A candidate for a*

*post of Police Patil should not be a member or be otherwise associated with any political party or organization taking part in politics. An office bearer or member of a local body who is the candidate for a post of Police Patil may be considered for such post but he could be appointed as Police Patil only on his actual designation from that body being effect.*

**14.** *In view of the aforesaid circular, which still holds field and as per the statement made by the learned counsel appearing on behalf of the State of Maharashtra, we have no hesitation to set aside the order passed by the Tribunal as well as by the High Court. Ordered accordingly. The appointment of appellant was illegally interfered with by the Tribunal and the appellant was rightly appointed to the post of Police Patil.”*

11. In the present case also, the Applicant had tendered resignation of the post of Director of Society before his appointment to the post of Police Patil. As such, the decision of Hon'ble Supreme Court is squarely applicable to the present situation and the objections raised by the Applicant deserve to be rejected. Suffice to say, the challenge to the appointment of Respondent No.4 holds no water and O.A. deserves to be dismissed. Hence, the following order.

### **ORDER**

The Original Application is hereby dismissed with no order as to costs.

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

Mumbai

Date : 10.04.2019

Dictation taken by :

S.K. Wamanse.