

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 686 OF 2018

[SUBJECT : - POLICE PATIL]

DISTRICT: - PARBHANI.

Bhagwat S/o. Madhukar Betkar,
Age-27 years, Occu. : Agri./Labour,
R/o. Bramhapuri (Tarphe Lohagaon),
Tq. Dist. Parbhani.

.. APPLICANT.

V E R S U S

1) The State of Maharashtra,
Through the Deputy Secretary,
Home Department, Mantralaya,
Mumbai – 32.

2) The President,
@ Sub-Divisional Magistrate,
Parbhani, having its Office in
Collector Office, Parbhani,
Tq. & Dist. Parbhani.

.. RESPONDENTS.

APPEARANCE : Shri. J.M. Murkute, learned Advocate
for the applicant.

: Smt. Sanjivani K. Deshmukh – Ghate,
learned Presenting Officer for the
respondents.

CORAM : **B.P. PATIL, ACTING CHAIRMAN**

RESERVED ON : **20.01.2020**

PRONOUNCED ON : **22.01.2020**

ORDER

By filing the present Original Application the applicant has challenged the order dated 15.06.2018 passed by the respondent No. 2, the President @ Sub-Divisional Magistrate, Parbhani, cancelling his candidature for appointment on the post of Police Patil of village Bhamhapuri, (Tarphe Lohagaon) Tq. & Dist. Parbhani and prayed to quash and set aside the impugned order.

2. The applicant is resident of village Bramhapuri (Tarphe Lohagaon) Tq. & Dist. Parbhani. He has passed HSC examination and also completed MS-CIT course. On 21.12.2015 the respondent No. 2 has issued an advertisement inviting applications from the eligible candidates for appointment on the post of Police Patil of different villages in sub division, Parbhani including the village of Bramhapuri (Tarphe Lohagaon) Tq. & Dist. Parbhani. In pursuance to the said advertisement the applicant and two other persons namely Giram Balasaheb Dadarao and Giram Uddhav Bapurao, had filed their applications for appointment on the post of Police Patil of

village Bramhapuri (Tarphe Lohagaon) Tq. & Dist. Parbhani. They appeared for written examination.

3. The applicant secured highest marks i.e. 66 marks in the written examination. Giram Uddhav Bapurao declared failed and third candidate i.e. Giram Balasaheb Dadarao declared ineligible as he failed in 10th standard examination. The applicant was only candidate, who successfully passed written examination and was eligible for the post of Police Patil. On 30.01.2016 before the oral interview of the applicant some of the villagers from village Bramhapuri (Tarphe Lohagaon) Tq. & Dist. Parbhani, filed representation to the respondent No. 2, Sub-Divisional Magistrate, Parbhani contending that the applicant is not resident of village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani and he is resident of Limba Tq. Pathri, Dist. Parbhani, and a criminal case for the offences U/s. 363, 366 & 376 of IPC has been registered against the applicant. By letter dated 10.02.2016 respondent No. 2 called upon the applicant to submit his say to the representation filed by some of villagers of the village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani. On 22.04.2016 the applicant appeared before the respondent No.

2 and filed his say to the representation and contended that his family is residing at village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani since 10 years. It is his contention that his father owns ancestral agriculture land at village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani. Ration card in the name of father of the applicant is also of village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani. He has produced the school leaving certificate showing that he is resident of village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani. It is his contention that his father-in-law filed complaint against him u/s. 363, 366 & 376 of IPC, but he was acquitted from the said offences in view of the judgment dated 30.01.2014 delivered by the learned Additional Session Judge, Parbhani. It is his contention that on 26.02.2016, the peoples from the village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani made representation to the respondent No. 2 stating that the allegations made against the applicant are false, a copy of which is at page No. 75, Annexure "A-8". Respondent No. 2 on 16.02.2016 rejected objection raised against the applicant on 30.01.2016 and directed the applicant to appear for oral interview on 22.02.2016. The

copy of interview letter dated 22.02.2016 is placed on record at page No. 79, Annexure "A-9".

4. Thereafter on 23.02.2016 another representation was filed by Sarpanch and other peoples of village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani, thereby taking objection to the selection of applicant. Therefore, respondent No. 2 again revised her earlier decision and came to the conclusion that as the Crime u/s. 376 of I.P.C. was registered against the applicant. Though he was acquitted by the learned Sessions Court, the offence was against the women and, therefore, he was of the opinion that the applicant should not be considered for appointment to the post of Police Patil. Thereafter, respondent No. 2 issued letter dated 19.03.2016 to the Deputy Secretary, Home Department, Mantralaya, Mumbai-32 seeking guidance in that regard. As the respondent No. 2 had not issued appointment order in favour of the applicant, the applicant had approached this Tribunal by filing O.A. No. 263/2016. The said O.A. was disposed of on 07.04.2016 with a direction to the respondents to take decision on the letter dated 19.03.2016 within a period of four weeks from the date of order i.e. from

07.04.2016. Thereafter, Secretary, Home Department, by letter dated 30.12.2017 informed the Collector that Sub-Divisional Officer is the competent authority to decide the matter. Therefore, respondent No. 2 decided the said issue and cancelled the selection of the applicant on 15.06.2018 by the impugned order on the ground that the applicant is temporary resident of village Brahmapuri and also on the ground that criminal case is registered against him. It is contention of the applicant that respondent No. 2 has not considered the documents placed on record with proper perspective. He has not considered the fact that applicant is having house property as well as agricultural land at village Bramhapuri and he is resident of same village. It is his contention that respondent No. 2 wrongly held that the character of the applicant is not good and considering the criminal case pending against him he is not fit to be appointed on the post of Police Patil. It is his contention that respondent No. 2 had taken decision under the influence of the political persons and, therefore, he challenged the impugned order by filing the Original Application.

5. Respondent No. 2 filed affidavit in reply and resisted the contention of the applicant. She has denied that the

applicant is permanent resident of village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani. She has denied that action on her part is against the provisions of law and she has passed the order under the influence of the political persons. It is her contention that the applicant was not permanent resident of village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani. She directed the Tahsildar, Parbhani to make local enquiry in that regard and to submit his report. Accordingly, Tahilsdar, Parbhani has submitted his report stating that the applicant is not residing in the village of Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani, since last 15 years. Applicant's uncle and relatives are resident of village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani and his father owns 40R land in his name. She has contended that he has criminal antecedent. He was involved in the criminal case and, therefore, he was not eligible to be appointed on the post of Police Patil. It is her contention that the Police Inspector, Rural, Parbhani and Tahsildar, Parbhani submitted report and on the basis of the report she decided objection raised by the villagers and rejected the candidature of the applicant and declared him as ineligible for the appointment on the post of Police Patil. It is her contention

that in view of the provisions of Section 6 of the Maharashtra Village Police Patil (Appointment, Remuneration, Service Condition) Order 1968, if the Police Patil's conduct is doubtful then appointing authority can remove the services of the Police Patil. It is her contention that the Police Patil's character to be appointed must be beyond doubt, but the applicant has criminal antecedent. Therefore, he is not eligible for appointment on the post of Police Patil. Therefore, she rejected the candidature of the applicant for appointment on the post of Police Patil. It is her contention that the impugned order is as per the rule and there is no illegality in it. Therefore, she prayed to reject the Original Application.

6. I have heard the arguments advanced by Shri J.M. Murkute, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents. I have perused the application, affidavit, affidavit in reply filed by the respondent No. 2. I have also perused the documents placed on record by both the parties.

7. Admittedly, the respondent No. 2 had issued an advertisement dated 21.12.2015 inviting applications from the eligible candidates for appointment on the post of Police

Patil of different villages in sub division, Parbhani including village Bramhapuri (Tarphe Lohagaon) Tq. & Dist. Parbhani. Admittedly, in pursuance to the said advertisement the applicant and two other persons namely Giram Balasaheb Dadarao and Giram Uddhav Bapurao, had filed their applications for appointment on the post of Police Patil of village Bramhapuri (Tarphe Lohagaon) Tq. & Dist. Parbhani. They appeared for written examination. In the written examination the applicant had secured highest marks i.e. 66 marks. Giram Uddhav Bapurao declared failed while third candidate i.e. Giram Balasaheb Dadarao declared ineligible as he did not possess required educational qualification. As the applicant being only successful candidate in written examination, he was called for oral interview. Before the oral interview on 30.01.2016 some of the villagers from village Bramhapuri (Tarphe Lohagaon) Tq. & Dist. Parbhani, filed representation to the respondent No. 2, Sub-Divisional Magistrate, Parbhani and prayed to declare the applicant ineligible on the ground that he is not resident of village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani and he is resident of Limba Tq. Pathri, Dist. Parbhani, and a criminal case has been registered against him for the offences

punishable U/s. 363, 366 & 376 of IPC. The said representation was decided by the respondent No. 2 and he rejected the claim of the villagers and called upon the applicant for oral interview on 22.2.2016. Thereafter, again on 23.2.2016 another representation was made by the Sarpanch and other villagers of village Bramhapuri (Tarphe Lohagaon), Tq. & Dist. Parbhani, with respondent No. 2. Therefore, respondent No. 2 again revised her earlier decision and came to the conclusion that the Crime for the offences punishable u/s. 376, 363 & 366 of I.P.C. was registered against the applicant and he has been subsequently acquitted by the learned Sessions Court, Parbhani. But, she was of the view that though the applicant was acquitted in the criminal case the offence was against women and, therefore, she was of the opinion that the applicant should not be considered fit for appointment to the post of Police Patil. Thereafter, she made reference to the Deputy Secretary, Home Department, Mantralaya, Mumbai-32 by letter dated 19.3.2016 and sought guidance. As the applicant was not appointed on the post of Police Patil, the applicant approached this Tribunal by filing O.A. No. 263/2016, which was disposed of on 07.04.2016 with a direction to the respondents to take decision on the

letter dated 19.03.2016 within a period of four weeks from the date of order i.e. from 07.04.2016. In pursuance to the said directions the respondent No. 2 decided the said proposal by the impugned order dated 15.06.2018 and cancelled the selection of the applicant on the ground that the applicant is not permanent resident of village Brahmapuri and also on the ground that criminal case is registered against him.

8. Learned Advocate for the applicant has submitted that forefather of the applicant and his family members are residing at village Bramhapuri (Tarphe Lohagaon) Tq. Dist. Parbhani since long. Father of the applicant namely Madhukar Betkar owns landed property and house property at village Bramhapuri. The applicant took education in the Primary School at Bramhapuri. His name was recorded in the voters' list of the village Bramhapuri. He has submitted that the said documents have been produced by the applicant before the respondent No. 2, but the respondent No. 2 had not considered the said documents and wrongly held that the applicant is not permanent resident of village Brahampuri. He has submitted that the respondents have wrongly held that the applicant is having criminal antecedent. He has

submitted that the applicant was prosecuted by his father in law for the offence u/s. 366 of IPC, as the applicant performed inter-caste marriage with the daughter of the complainant but the criminal case i.e. Special (PCSO Act) Case No. 3/2013 ended in acquittal on 30.1.2014. He has submitted that at the time of filing the application for appointment on the post of Police Patil, no criminal case was pending against him, but the respondent No. 2 has not considered the said aspect. He has submitted that another criminal case i.e. N.C. case No. 118/2018 U/s. 323, 504, 506 r/w 34 of IPC has been registered against him after his selection, but it is a false case. Therefore, the same cannot be a ground for rejection of his candidature. He has submitted that respondent No. 2 has passed the impugned order under the influence of political persons and under the pressure of some of the villagers of village Brahampuri and, therefore, he prayed to quash and set aside the impugned order by allowing the Original Application.

9. Learned Presenting Officer for the respondents has submitted that the applicant had not produced any document to show that he is permanent resident of village Brahampuri

though opportunity was given to him. The document shows that father of the applicant owns landed property and house property at Brahampuri, but there is nothing on record to show that the applicant resides at Brahampuri. Respondent No. 2, the Sub Divisional Officer, Parbhani, directed the Tahsildar to conduct enquiry regarding resident of the applicant and accordingly Tahsildar has conducted the enquiry and arrived at the conclusion that the applicant is not permanent resident of village Brahampuri. The Tahsildar has submitted enquiry report to that effect to the respondent No. 2, Sub Divisional Magistrate, Parbhani. She has submitted that the Police had also made enquiry and submitted report stating that the applicant has criminal antecedent and he is involved in the criminal case and, therefore, he cannot be appointed on the said post. Respondent No. 2, the Sub Divisional Magistrate, Parbhani, personally visited the village Brahampuri and made enquiry and thereafter passed the impugned order and rejected the candidature of the applicant on the ground that the applicant is not permanent resident of village Brahampuri. Since the post of Police Patil is key post and sensitive and since the applicant is involved in the criminal case, he is not eligible to

be appointed on the post of Police Patil. She has submitted that there is no illegality in the impugned order. The impugned order has been issued in view of the rules and applicant has not satisfied the clause mentioned under the head of "terms & conditions" of the advertisement and, therefore, the respondent No. 2 has rightly rejected the candidature of the applicant. Therefore, she justified the impugned order.

10. I have gone through the documents placed on record. On going through the documents, it reveals that the applicant has produced 7/12 extract and extract of Form No. 8 showing that his father owns house and landed property at Brahampuri. But the applicant has not filed a single document showing that he is resident of village Brahampuri, at the time of filing of the application. On the contrary, during the enquiry made by the Tahsildar it was disclosed that the applicant is not residing permanently at village Brahampuri and he is residing at village Limba Tq. Pathri, Dist. Parbhani. Not only this, but on perusal of reply filed by the applicant to the complaint dated 30.01.2016 before the respondent No. 2, Sub Divisional Magistrate, Parbhani, a

copy of which is at page No. 61 of paper book of O.A., it reveals that the applicant has admitted the fact that he is residing at Mauje Limba Deshmukh Tq. Pathari, since 18 years along with his parents and their names have been recorded in the voters list of village Limba. Not only this but in the reply he has further admitted that since the year 2013 he is residing at Uday Nagar, Parbhani for taking education and his name has been recorded in the voters list at Parbhani. From the admissions given by the applicant it is crystal clear that the applicant and his family is not residing at village Brahampuri and they are residing at village Mauje Limba Deshmukh, Tq. Pathari since 18 years. It has been revealed during the enquiry conducted by the Tahsildar, as well as, personal enquiry conducted by the Sub Divisional Magistrate that the applicant is not permanent resident of village Brahampuri and the said fact falsifies the contention of the applicant that he is permanent resident of village Brahampuri. The applicant has not produced a single document showing that he is permanent resident of village Brahampuri, at the time of filing an application and prior to that. The respondent No. 2 has rightly considered the said

aspect and decided the said issue. There is no illegality in the findings recorded by the respondent No. 2 in that regard.

11. The post of Police Patil is key and sensitive post in the village. The person appointed on the said post must be permanent resident of the said village and must possess good moral character. The said conditions are pre-requisite and necessary conditions for appointment on the post of Police Patil and the same has been mentioned in the advertisement which is at page Nos. 26 & 27 of the paper book of O.A. The applicant was involved in the offence against women. No doubt subsequently he has been acquitted of the said offences. But thereafter another crime has been registered against him. Therefore, the concerned Police Officer has raised doubt regarding the character of the applicant and on the basis of the said report of Police Officer, the respondent No. 2 held that the applicant is ineligible for appointment on the post of Police patil and consequently he cancelled the selection of the applicant for the post of Police Patil of village Brahamapuri, Tq. & Dist. Parbhani in the recruitment process of 2015. I find no illegality in the impugned order. The respondent No. 2 has decided eligibility of the applicant

on the basis of available record and enquiry made by the Tahsildar and concerned Police Officer. She has recorded reasons while rejecting the candidature of the applicant for the post of Police Patil. I find no illegality in the impugned order passed by the respondent No. 2. Therefore, no interference is called for in the said order. There is no merit in the present Original Application. Consequently, it deserves to be dismissed.

12. In view of the discussion in foregoing paragraphs, the present O.A. stands dismissed. There shall be no order as to costs.

ACTING CHAIRMAN

PLACE : AURANGABAD.

DATE : 22.01.2020

O.A.NO.686-2019(SB-Police Patil)-HDD-2020