

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 877 OF 2018**

**[Subject : Police Patil]**

DISTRICT: - JALGAON.

**Sachin S/o Vasanttrao Tonde,**  
Age-38 years, Occu. : Agril,  
R/o. At Karanjgaon, Post Talegaon,  
Tq. Chalisgaon, Dist. Jalgaon.

.. APPLICANT.

**V E R S U S**

**1. The State of Maharashtra**

Through : Secretary,  
Home Department,  
Mantralaya, Mumbai 32.

**2. The Sub-Divisional Officer/**

**Magistrate, Chalisgaon,**  
District Jalgaon.

**3. Sarika W/o Anil Darade,**

Age – Major, Occ: Household,  
R/o. At Karanjgaon, Post Talegaon,  
Tq. Chalisgaon, Dist. Jalgaon.

.. RESPONDENT.

-----  
**APPEARANCE** : Shri. K.B. Jadhav, learned Advocate for  
the applicant.

: Shri N.U. Yadav, learned Presenting  
Officer for the resp. Nos. 1 & 2.

: Shri A.B. Rajkar, learned Advocate  
for respondent No. 3.

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

**RESERVED ON** : **5<sup>TH</sup> DECEMBER, 2019**

**PRONOUNCED ON** : **6<sup>TH</sup> DECEMBER, 2019**  
-----

**ORDER**

The applicant has challenged the order dated 30.10.2018 issued by the respondent No. 2; thereby disqualifying the applicant for appointment on the post of Police Patil of village Karanjgaon, Tq. Chalisgaon, District Jalgaon and also challenged the appointment order dated 03.11.2018 issued by the respondent No. 2; thereby appointing the respondent No. 3 on the post of Police Patil of village Karanjgaon, Tq. Chalisgaon, District Jalgaon and also prayed to quash and set aside the advertisement No. 3 dated 28.08.2018 issued by the respondent No. 2 for the post of Police Patil to the extent of village Karanjgaon, Tq. Chalisgaon, District Jalgaon, only. He has also prayed to quash and set aside the orders issued by the respondent No. 2 and to direct the respondents to conduct the oral interview afresh and to declare that he is selected for the post of Police Patil of village Karanjgaon, Tq. Chalisgaon, District Jalgaon, by filing the present Original Application.

2. The applicant is permanent resident of village Karanjgaon, Tq. Chalisgaon, District Jalgaon. On 28.08.2018, respondent No. 2 issued an advertisement calling applications from the eligible candidates for appointment on

the post of Police Patil of different villages in Chalisgaon Sub Division including village Karanjgaon, Tq. Chalisgaon, District Jalgaon. The applicant, respondent No. 3 and other aspiring candidates have filed their application forms for appointment on the post of Police Patil of village Karanjgaon, Tq. Chalisgaon, District Jalgaon. They participated in the recruitment process. They appeared for the written examination. In the written examination the applicant secured 61 marks while respondent No. 3 secured 64 marks. Respondent No. 2 called the applicant, respondent No. 3 and another candidate namely Gokul Ghuge, for oral interview as they secured highest marks. The oral interview was scheduled on 30.10.2018. The applicant produced requisite documents before the respondent No. 2, but the respondent No. 2 had not permitted to the applicant and Gokul Ghuge for oral examination on the ground that crime was registered against them and criminal appeal is pending against the applicant in the Hon'ble High Court. The respondent No. 2 has not taken oral interview of the applicant and Gokul Ghuge on 30.10.2018. On 10.11.2018 the applicant received the order dated 30.10.2018 issued by the respondent No. 2 informing that he is not qualified for the post of Police Patil of village Karanjgaon, Tq. Chalisgaon, District Jalgaon, on the

ground that criminal case was registered against him and criminal appeal is pending against him before the Hon'ble High Court.

3. It is contention of the applicant that one false criminal case bearing No. 100/2005 has been registered against him for the offences under Sections 307, 143, 147, 148, 341, 337, 504 & 506 read with Section 149 of I.P.C. The applicant and other accused were acquitted on 25.02.2008 from the said charges. Thereafter, the original complainant preferred a criminal appeal No. 169/2012 before the Hon'ble High Court and same is pending. It is contention of the applicant that he has not suppressed the facts of registration of criminal case, but the respondent No. 2 has not considered the said fact and illegally disqualified him for oral interview. It is his further contention that he was not allowed to participate in the oral interview by the respondent No. 2 only to select and accommodate the respondent No. 3. It is his contention that result of the examination has been declared by the respondent No. 2. The respondent No. 2 has given more marks to the respondent No. 3 and less mark to him intentionally. It is his contention that he has correctly

answered all the questions, but the respondent No. 2 has given less mark to him to favour the respondent No. 3.

4. It is his contention that the advertisement for appointment on the post of Police Patil issued by the respondent No. 2 is contrary to the provisions of Maharashtra Village Police Patil Act, 1968. Condition No. 2 of the advertisement is contrary to the rules. The age limit needs to be mentioned as on the date of appointment and not on the date of advertisement. Therefore, it requires to be quashed. It is contention of the applicant that the respondent No. 2 has not decided the objection of the respondent No. 3 firstly and without deciding the objection directly disqualified him for the post of Police Patil and, therefore, it is illegal. The impugned order issued by the respondent No. 2 dated 30.10.2018 appointing respondent No. 3 on the post of Police Patil is erroneous and liable to be quashed and set aside. Due to the political pressure the respondent No. 3 has been selected. Therefore, he approached this Tribunal and prayed to quash and set aside the advertisement and to direct the respondent No. 2 to conduct the oral interview afresh and declare him as selected candidate by allowing the present Original Application.

5. Respondent Nos. 1 & 2 resisted the contentions of the applicant by filing affidavit in reply. They have not disputed the fact regarding publication of the advertisement inviting the applications for the post of Police Patil of different villages in Chalisgaon Sub-Division. They have admitted the fact that the respondent No. 3, applicant and other candidates applied for the post of Police Patil of village Karanjgaon Tq. Chalisgaon, District Jalgaon. Admittedly, the applicant, respondent No. 3 and other candidates participated in the recruitment process. They have not disputed the fact that the applicant, Shri Sachin Vasantrya Tonde, Gokul Nivrutti Ghuge and respondent No. 3, Sarika Anil Darade were called for oral interview scheduled on 30.10.2018. It is their contention that all of them remained present for the oral interview. They have denied that the respondent No. 2 has not permitted the applicant to appear for oral interview. It is their contention that oral interview of the applicant, Shri Sachin Vasantrya Tonde, Gokul Nivrutti Ghuge and respondent No. 3, Sarika Anil Darade, had been conducted by the Police Patil Selection Committee under the guidance of respondent No. 2 and the Members of the Committee had given marks to them, according to their performance. It is their contention that in oral interview the applicant Shri

Sachin Vasantrya Tonde has secured 9 marks out of 20, one Gokul Nivrutti Ghuge has secured 12 marks out of 20 and respondent No. 3, Sarika Anil Darade has secured 14 marks out of 20. It is their contention that the FIR bearing No. 61/2005 dated 22.4.2005 has been lodged against the applicant, Shri Sachin Vasantrya Tonde and others with Chalisgaon Gramin Police Station for the offences under Sections 307, 143, 147, 148, 149, 341, 504 & 506 of I.P.C. The Session Court Jalgaon acquitted the said accused in Criminal Case No. 100/2005, but the said decision has been challenged by the original complainant before the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad by filing the Criminal Appeal No. 169/2012 and the same was admitted and the case is pending before the Hon'ble High Court. It is their contention that another complaint bearing No. 337/2017 dated 03.05.2017 was filed under Section 504 & 506 of IPC against the accused Gokul Nivrutti Ghuge. Thereafter, the Criminal Miscellaneous Application No. 319/2019 dated 09.05.2017 has been filed before the court of J.M.F.C. Chalisgaon and the same is pending. It is their contention that since the Criminal Cases were pending against the applicant, Sachin Vasantrya Tonde, and one Gokul Nivrutti Ghuge, they have been disqualified under

Section 3 (e) of Maharashtra Gramin Police Patil Act, 1968 and, therefore, the marks given to them in oral interview had not been published in the final mark list and they were declared as disqualified. It is their contention that entire recruitment process has been conducted under the supervision / observation of Collector and it has been conducted transparently and hence no question of political pressure arises. It is their contention that the post of Police Patil is key and prestigious post in the village and the person to be appointed on the post of Police Patil must possess good moral character and without having any criminal background or history. Therefore, considering the antecedents of the applicant and Gokul Nivrutti Ghuge, there were disqualified. It is their contention that there is no illegality in the impugned order. It is their contention that as respondent No. 3 has secured highest marks in aggregate she had been declared as selected candidate and, thereafter appointment order has been issued in her favour. There is no illegality in the impugned orders and, therefore, they prayed to reject the present Original Application.

6. Respondent No. 3 has also resisted the contentions of the applicant raised in the present Original Application by



filing her affidavit in reply. She has submitted that she had applied for the post of Police Patil of village Karanjgaon, Tq. Chalisgaon, District Jalgaon, along with applicant, Sachin Vasantrao Tonde, one Gokul Nivrutti Ghuge and other candidates and all of them appeared for the written examination. Thereafter, Respondent No. 2 called the applicant, respondent No. 3 and another candidate namely Gokul Ghuge, for oral interview as they secured highest marks. It is her contention that their oral interview has been conducted by the Police Patil Committee on 30.10.2018 and accordingly the marks have been allotted. As the applicant was in criminal case, he has been disqualified by the respondent No. 2 for the post of Police Patil. She has also raised the similar contention to that of the contention raised by the respondent Nos. 1 & 2 and prayed to reject the present Original Application.

7. The applicant has filed rejoinder affidavit and resisted the contentions raised by the respondents in their affidavit in reply. He has reiterated the same grounds raised in the Original Application and prayed to allow the present Original Application.

8. I have heard the arguments advanced by Shri. K.B. Jadhav, learned Advocate for the applicant, Shri N.U. Yadav, learned Presenting Officer for the resp. Nos. 1 & 2 and Shri A.B. Rajkar, learned Advocate for respondent No. 3. I have perused the application, affidavit, affidavit in reply filed by the respondents. I have also perused the documents placed on record by both the parties.

9. Admittedly, the respondent No. 2, the Sub-Divisional Officer / Magistrate, Chalisgaon, District Jalgaon published the advertisement No. 3 dated 28.08.2018 calling applications from the eligible candidates for appointment on the post of Police Patil in different villages in Chalisgaon Sub Division including village Karanjgaon, Tq. Chalisgaon, District Jalgaon. In response to the said advertisement, the applicant, Sachin Vasanttrao Tonde, respondent No. 3, Sarika Anil Darade, one candidate namely Gokul Nivrutti Ghuge and other aspiring candidates had filed their applications for appointment on the post of Police Patil of village Karanjgaon, Tq. Chalisgaon, District Jalgaon. Admittedly, they participated in the recruitment process. They appeared for the written examination. Admittedly, the applicant, respondent No. 3 and Gokul Nivrutti Ghuge secured highest

marks amongst the candidates who appeared for the written examination. Therefore, respondent No. 2 called them for oral interview scheduled on 30.10.2018. Accordingly, they appeared before the Sub-Divisional Officer / Magistrate. Their oral interview has been conducted by Police Patil Selection Committee on 30.10.2008. The applicant and Gokul Ghuge were involved in the crime and, therefore, respondent No. 2 disqualified them from the recruitment process and declared respondent No. 3 as selected candidate and thereafter, issued appointment order in her favour.

10. Learned Advocate for the applicant has submitted that the recruitment process conducting by the respondent No. 2 is in violation of the provisions of the Maharashtra Village Police Act, 1968. He has submitted that the condition No. 2 regarding the age of the candidate mentioned in the advertisement is against the provisions of rules and, therefore, entire recruitment process is vitiated. Therefore, he prayed to quash and set aside the entire recruitment process.

11. He has further submitted that the applicant was called for oral interview scheduled on 30.10.2018. Accordingly, he appeared before the respondent No. 2, the Sub-Divisional Officer / Magistrate, Chalisgaon, District Jalgaon, but the

respondent No. 2 disqualified him and another candidate Gokul Nivrutti Ghuge, on the ground of pendency of the criminal cases and respondent No. 2 had not permitted them to appear for the oral interview. He has submitted that the act of the respondent No. 2 disqualifying him and another candidate Gokul Nivrutti Ghuge is illegal. Respondent No. 2 has not given an opportunity to appear for the oral interview to the applicant and, therefore, the entire selection process is vitiated. He has submitted that the respondent No. 2 has intentionally passed the impugned order disqualifying the applicant with intend to favour respondent No. 3. He has submitted that the record shows that no oral interview of the applicant has been conducted. He has argued that documents produced on record have been subsequently prepared to suite the defence of the respondents. He has submitted that the entire process has not been conducted transparently by the respondent No. 2 and, therefore, injustice has been caused to the applicant. Therefore, he prayed to quash and set aside the impugned order by allowing the present Original Application.

12. Learned Presenting Officer for the respondent Nos. 1 & 2 and learned Advocate for the respondent No. 3 have

submitted that the respondent No. 2 has conducted oral interview of the applicant, Gokul Nivrutti Ghuge and respondent No. 3 on 30.10.2018. The Selection Committee assessed their performance in the oral interview and gave the marks to them. They have submitted that objection, regarding eligibility of the applicant and Gokul Nivrutti Ghuge, has been raised as they were involved in the criminal cases. Therefore, the respondent No. 2 and Police Patil Selection Committee decided to hear objection. After verifying documents they decided to disqualify the applicant and Gokul Nivrutti Ghuge, from the recruitment process as they have criminal antecedent. They have submitted that since the applicant and Gokul Nivrutti Ghuge, were disqualified, it has been mentioned in the result-sheet accordingly and mark secured by them in the oral interview had not been displayed / mentioned therein. They have submitted that there was no illegality in issuing the appointment order in favour of the respondent No. 3 as she was declared as selected candidate as she secured highest marks amongst of all the candidates. Therefore, they prayed to dismiss the present Original Application.

13. Learned Presenting Officer for the respondent Nos. 1 & 2 and learned Advocate for the respondent No. 3 have argued that the applicant has not challenged the advertisement dated 28.08.2018 immediately. On the contrary, he participated in the recruitment process. He appeared for the written, as well as, oral examination and, therefore, he cannot challenge the recruitment process at this stage. Therefore, they prayed to dismiss the present Original Application.

14. On perusal of the documents on record, it is crystal clear that the applicant, respondent No. 3, one Gokul Nivrutti Ghuge and other candidates filed their applications for appointment on the post of Police Patil for village Karanjgaon, Tq. Chalisgaon, District Jalgaon. The applicant has not challenged the advertisement and terms and conditions laid down in it immediately. On the contrary, he participated in the recruitment process. He appeared for the written examination. He himself, respondent No. 3 and Gokul Nivrutti Ghuge were called for oral interview scheduled on 30.10.2018 as they have secured highest marks amongst the candidates appeared for the written examination. They appeared for the oral examination on 30.10.2018. The documents produced at page No. 92, Exhibit "R-3 collectively"

shows that they appeared before the Police Patil Selection Committee for oral interview and their oral interview had been conducted by the said Committee on 30.10.2018. The Members assessed their performance in the oral interview and allotted marks to them. In the written examination the applicant secured 61 marks, respondent No. 3 secured 64 marks and one Gokul Nivrutti Ghuge has secured 61 marks. In the oral examination the applicant secured 9 marks out of 20, one Gokul Nivrutti Ghuge has secured 12 marks out of 20 and respondent No. 3 has secured 14 marks out of 20. It means that the applicant secured 70 marks, Gokul Nivrutti Ghuge secured 73 marks and respondent No. 3 secured 78 marks in aggregate. On conducting oral examination, the Selection Committee found that the criminal cases were pending against the applicant and Gokul Nivrutti Ghuge. Therefore, the respondent No. 2 disqualified the applicant and Gokul Nivrutti Ghuge from the recruitment process on the ground that they have criminal antecedent and, therefore, the respondent No. 3 was declared as selected candidate. I find no illegality in the said decision taken by the Selection Committee. Since the applicant and Gokul Nivrutti Ghuge were declared as disqualified they have not mentioned the oral marks allotted to them while declaring the final mark-

sheet. Merely because their marks were not mentioned in the final mark-sheet it cannot be said that they were not permitted to appear for the oral interview. Not only this, but it is material to note that the applicant has taken contradictory pleas in the original application. At one place he has contended that he had not been called for oral interview. In the next breath he contends that he appeared for the oral examination but the respondent No. 2 has given intentionally less marks to him to accommodate the respondent No. 3. The said facts falsify the contentions of the applicant in that regard. The applicant has not approached the Tribunal with clean hand. Therefore, the contention of the applicant that he has not been called for oral interview is not acceptable. Even considering the marks secured by the applicant, respondent No. 3 and Gokul Nivrutti Ghuge in the written and oral examinations, it reveals that the respondent No. 3 secured highest marks amongst them. Therefore, she was eligible to be appointed on the post of Police Patil of village Karanjgaon, Tq. Chalisgaon, District Jalgaon, on that ground also.

15. No doubt same irregularities might have been committed by the respondent No. 3 while conducting the



recruitment process. The Selection Committee has not maintained minutes of the meeting but it does not vitiate the recruitment process. But, the documents placed on record show that the Selection Committee conducted the oral interview of all 3 candidates i.e. applicant, respondent No. 3 and Gokul Nivrutti Ghuge and allotted the marks to them on the basis of their performance in the oral interview. The documents show that they processed all the recruitment process by taking care and maintained transparency in it. Therefore, on that ground the recruitment process cannot be challenged. There is no illegality in the impugned orders issued by the respondent No. 2. The respondent No. 2 has selected the respondent No. 3 on the post of Police Patil as she secured highest marks amongst the candidates participated in the recruitment process, and more particularly the applicant and one Gokul Nivrutti Ghuge. Both the applicant and Gokul Nivrutti Ghuge have been disqualified from the recruitment process. Hence, the respondent No. 3 has been declared as selected candidate and accordingly, she has been appointed as Police Patil of village Karanjgaon, Tq. Chalisgaon, District Jalgaon, I find no illegality in the impugned orders. Therefore, no interference in the impugned

orders is called for. There is no merit in the present Original Application. Consequently, it deserves to be dismissed.

16. In view of the discussion in foregoing paragraphs, the present Original Application stands dismissed with no order as to costs.

**ACTING CHAIRMAN**

**PLACE : AURANGABAD.**

**DATE : 6<sup>TH</sup> DECEMBER, 2019**

O.A.NO.877-2018(SB-Police Patil)-HDD-2019