

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI, BENCH AT AURANGABAD  
ORIGINAL APPLICATION NO. 170 OF 2013**

**DISTRICT :Nandurbar**

Pankaj S/o Saakharam Koli, )  
Age-26 years, Occu: Nil, )  
R/o. At Post: Sarangkhedda, )  
Tal: Shada, )  
Dist. Nandurbar. )...**Applicant**

**VERSUS**

1. State of Maharashtra, )  
Through its Principal Secretary, )  
Home Department, Mantralaya, )  
Mumbai – 32. )
2. The Director General of Police (M.S.), )  
Mumbai. )
3. Special Inspector General, )  
Nasik Region, Nashik. )
4. The Commissioner of Police, )  
Commissioner Office, )  
Nashik. )
5. The Superintendent of Police, )  
S.P. Office, )  
Nashik. )....**Respondents**

Miss. Bhavana Panpatil, the learned Advocate holding for  
Shri S.B. Talekar, the learned Advocate for the Applicant.

Mrs. Sanjivani Ghate-Deshmukh, learned Presenting Officer  
for the Respondents.

**CORAM : Shri Rajiv Agarwal, Vice-Chairman**  
**Shri B. P. Patil, Member (J)**

**DATE : 08.03.2017**

**PER : Shri Rajiv Agarwal, Vice-Chairman**

**ORDER**

1. Heard Miss. Bhavana Panpatil, the learned Advocate holding for Shri S.B. Talekar, the learned Advocate for the Applicant and Mrs. Sanjivani Ghate-Deshmukh, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant challenging the communication dated 23.1.2013 from the Respondent No.5, informing the Applicant that the Higher Power Committee has rejected his case for appointment to the post of Police Constable.

3. Learned Counsel for the Applicant argued that the Applicant had applied for the post of Police Constable in Nasik District in Maharashtra Police Recruitment, 2011. The Applicant belongs to Special Backward Category (S.B.C.) and he was allowed to participate in the selection procedure. The Applicant was declared successful in the Revised Selection List published on 17.5.2012 (Exhibit 'C'). The Applicant had filled Attestation Form with a view to verify his Character and Antecedents. He has truthfully disclosed that an F.I.R. was

filed against him in Dhule City Police Station C.R.No.159/2009 on 10.08.2009 under various sections of the Indian Penal Code (I.P.C.). Under Rule 5 of the Maharashtra Police Constable (Recruitment) Rules, 2011 (incidentally these statutory Rules were notified on 16.6.2011 and this notification is not a Government Resolution as mentioned in the O.A.) as a criminal case was pending against the Applicant, his case was submitted for consideration before the High Power Committee of the Government. This Committee rejected the proposal to appoint the Applicant as Police Constable presumably because an F.I.R. was pending against him by letter dated 1.1.2013. By impugned communication dated 23.01.2013, the Applicant was informed accordingly.

4. Learned Counsel for the Applicant vehemently argued that mere registration of an F.I.R. against a person will not disqualify him for appointment in Government Service. A person is innocent unless proved guilty. In case of the Applicant though F.I.R. was registered on 10.8.2009, till today no charge-sheet is filed. Offence registered against the Applicant is false and made in a very casual manner. He was not involved in the said incident at all. The Applicant had made a candid disclosure of the fact of registration of offence against him. The High Powered Committee had not given any reasons for rejecting the case of the Applicant as such, the decision is illegal. Learned Counsel for the Applicant cited a large number of judgments in support of her case.

5. Learned Presenting Officer (P.O.) argued on behalf of the Respondent that Rule 5 of the Maharashtra Police Constable (Recruitment) Rules, 2011 notified on 16.6.2011 provides that appointment cannot be given to a candidate against whom offence is registered. It is obligatory to send such proposal for consideration before the High Power Committee of the Government. As an F.I.R. under Sections 307, 435, 353, 332, 147, 148, 149, 336, 338, 324, 186 and 427 of I.P.C. was registered (CR No.154/2009) in Dhule City, Police Station, the Applicant's case was referred to the High Power Committee, who have taken a conscious decision to not appoint the Applicant as Police Constable in view of a Criminal case of very serious nature pending against him.

6. The Applicant has relied upon the following judgments:-

- (1) ***State of West Bengal Vs. Subhash Kumar Chatterjee and Others (2010) 11 SCC 694.***
- (2) ***Daya Shankar Yadav S/o Union of India and Others (2010) 14 SCC 103.***
- (3) ***Manoj Narula Vs. Union of India (2014) 9 SCC 1.***
- (4) ***Commissioner of Police and another Vs. Sandeep Kumar (2011) 4 SCC 644.***
- (5) ***Avtar Singh Vs. Union of India.***
- (6) ***Sahara India (Firms), Lucknow Vs. Commissioner of Income Tax Central- I and another (2008) 14 SCC 151.***

Learned P.O. for the Respondents has relied on the judgment of three Judge Bench of Hon'ble Supreme Court in the case of Avtar Singh Vs. Union of India & Others in Special Leave Petition (c) no.20525/2011 delivered on 21.7.2016. Hon'ble S.C. has held that:-

“24. No doubt about at that once verification from requires certain information to be furnished, declarant is duty bound to furnish it correctly and any suppression of material facts or submitting false information may be itself lead to termination his services or cancellation of candidature in an appropriate case. However, in a criminal case incumbent has not been acquitted and case is pending trial, employer may well be justified in not appointing such an incumbent or in terminating the services as conviction ultimately may render him unsuitable for job and employer is not supposed to wait till outcome of criminal case.”

7. In the State of Madhya Pradesh & Others Vs. Parvez Khan : (2015) 2 SCC 591, Hon'ble S.C. had held that:-

“13. From the above observations of this Court, it is clear that a candidate to be recruited to Police service must be worthy of confidence and must be a person of utmost rectitude and must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was completely exonerated. Persons, who are likely to erode the credibility of the Police ought not to enter the police force.”

8. The three Judges Bench of Hon'ble Supreme Court has reviewed many earlier judgments and explained and reconciled them. It may be considered as authentic pronouncement of the Apex Court on this issue. It is, therefore, not necessary to consider, in detail, the case law cited by the Applicant, when the applicant is clearly ineligible for selection to the post of Police Constable in the light of the aforesaid judgments of Hon'ble S.C.

9. Having regard to the aforesaid facts and circumstances, this Original Application is dismissed with no order as to costs.

**(B.P. PATIL)**  
**MEMBER (J)**

**(RAJIV AGARWAL)**  
**(VICE-CHAIRMAN)**

**Date :** .03.2017

**Place :** Aurangabad

**Dictation taken by :** SBA

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