

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**REVIEW APPLICATION NO.11 OF 2018 IN ORIGINAL APPLICATION NO.693 OF 2016**

Smt. Sunita D. Pawale )  
Aged 27 yrs, Occu.: Nil, )  
R/at : A/P Maldhon, Tal. Sinnar, )  
Dist. Nashik. ) **....Applicant**

**Versus**

1. The State of Maharashtra, )  
Through the Secretary, Home Dept, )  
Mantralaya, Mumbai 400 032. )
2. The Collector, Nashik. )
3. The Sub Divisional Officer cum Dy. Collector )  
Niphad Sub Division, Niphad, Dist. Nashik. )
4. Tahasildar, Sinnar, Tal. Sinnar, Dist. Nasik. )
5. Smt. Pratibha Adinath Kudnar, )  
R/o. Maldhon, Tal. Sinnar, Dist. Nashik. ) **...Respondents.**

Shri J. N. Kamble, Counsel for the Applicant.

Shri A. J. Chougule, Presenting Officer for the Respondent Nos.1 to 4.

Shri P. S. Pathak , Counsel for the Respondent No. 5.

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

**DATE : 08.08.2019.**

**J U D G M E N T**

1. Heard Shri J. N. Kamble, learned Counsel for the Applicant, Smt. Archana B. K., learned Presenting Officer for the Respondent Nos. 1 to 4 and Shri P.S. Pathak, learned Counsel for the Respondent No.5.

2. The present R.A. is filed by Smt. Sunita Pawale for the review of the judgment passed by this Tribunal in O.A.No.693/2016 decided on 14.03.2017.

3. O.A.No.693/2016 was filed by Smt. Pratibha Kudanar challenging the order dated 28.06.2016 issued by the S.D.O. Niphad, Dist. Nashik holding her ineligible to appointment for the post of Police Patil on the ground that she does not have moral character. However, the Tribunal by judgment dated 14.03.2017 set aside the order of

S.D.O. and directions were issued to appointment of Smt. Pratibha Kudanar on the post of Police Patil. Accordingly she was appointed.

4. Now, the present R.A. has been filed Smt. S. S. Pawale who was second in merit list contending that the decision rendered by this Tribunal in O.A. No.693/2016 is incorrect as the Tribunal has not appreciated the issue properly.

5. Shri J. N. Kamble, learned Counsel for the Applicant sought to contend that Pratibha Kudanar was appointed on the post of Police Patil does not have good character as her family is doing business of illicit liquor. According to him, the Tribunal has not considered the report of S.D.O. and therefore, he is challenging the order passed by this Tribunal in O.A.No.693/2016 by filing Review Application.

6. Whereas Shri P.S.Pathak, learned Counsel for the Respondent No.5 submits that the matter in issue is about the character and it has been elaborately considered by the Tribunal while delivering the judgment and set aside the order of S.D.O. dated 28.06.2016. He has further pointed out that the judgment is based upon the decision of the Hon'ble Supreme Court in **AIR 2015 SCW 5321 Manyata Devi V/s. State of Uttar Pradesh & Ors.** wherein it has been held that woman's moral character has to be decided on the basis of her own conduct and the conduct of her husband cannot be considered while deciding to grant or not grant her a certificate of good moral character.

7. Indeed, the Applicant was not party to O.A. No.693/2016 and therefore, review itself is not maintainable by the person who is not party to the O.A.

8. However, learned Counsel for the Respondent No.5 submits that apart from non-maintainability of the Review Application on technical point, the same be decided on merit.

9. As regard maintainability of R.A., Shri J. N. Kamble, learned Counsel for the Applicant placed reliance on the judgment in **(1997) 6 SCC 473 K. Ajit Babu & Ors V/s. Union of India & Ors.** The matter therein pertained to seniority. The O.A. was filed in the Tribunal by person who was not party to the earlier O.A. but O.A. was rejected on the ground that remedy was to avail relief of review. It is in that context the Hon'ble Supreme Court held that view taken by the Tribunal is incorrect and directions were issued to decide O.A. on merit. In my considered opinion, this judgment does not lay down absolute proposition of law that in all situation the person who is not party to the

proceeding, can file the review in that matter. The issue was pertaining to seniority list and it is in that context observations were made by the Hon'ble Supreme Court. Whereas, present matter pertains to the post of Police Patil in which present Applicant was not party to O.A.No.693/2016. As such, on this ground alone, Review Application is liable to be dismissed.

10. Apart from assuming for a moment that Review Application is maintainable, in that event also, the challenge to the judgment in O.A.No.693/2016 is without any merit. The objection now raised by the present person in R.A. that Smt. Pratibha Kudanar was not having moral and good character has been already dealt with by this Tribunal and set aside the order of S.D.O. The judgment in O.A.No.693/2016 has attained finality and consequent to it Smt. Pratibha Kudanar has been appointed on the post of Police Patil and is functioning on the said post.

11. Suffice to say, the issue of eligibility of Smt. Pratibha Kudanar has been already adjudicated on merit in O.A.No.693/2016 and nothing is pointed out in the present R.A. to bring it within the parameter of order 47 of CPC.

*“(i) discovery of new and important matter of evidence which after the exercise of due diligence, was not within the knowledge of the applicant or could not be produced by him at the time when the decree was passed or order was made, or*

*(ii) some mistake or error apparent on the face of the record or*

*(iii) for any other sufficient reason (which has been interpreted to be analogous to the other reasons specified above).”*

12. As such, this R.A. is nothing but an attempt to reopen the O.A. No.693/2016 without bringing on record any other evidence or material which could not have been brought on record while deciding the O.A.No.693/2016. Therefore, I see no merit in R.A. and the same deserves to be dismissed.

### **ORDER**

Review Application is dismissed with no order as to costs.

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